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Fifty-third session

SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 1 April 1997, at 3 p.m.

Chairman: Mrs. BAUTISTA (Philippines)
(Vice-Chairman)

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In the absence of Mr. Somol (Czech Republic), Mrs. Bautista (Philippines), Vice-Chairman, took the Chair.

The meeting was called to order at 3.20 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

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(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 8) (continued) (E/CN.4/1997/4 and Add.1, Add.2 and Corr.1 and Add.3, 7 and Add.1-3 and Corr.1, 25 and Add.1, 26, 27 and Add.1, 28, 29 and Add.1, 30, 31 and Add.1, 32-34, 55 and Corr.1, 103 and 104; E/CN.4/1997/NGO/3, 4, 7, 8, 20, 22, 23, 29, 50 and 80; E/CN.4/Sub.2/1996/16, 17 and 19 and Corr.1 and Add.1; A/51/465 and 561)

1. Mr. ALAEE (Observer for the Islamic Republic of Iran) said that the right to freedom of opinion and expression gave the individual and society the opportunity to develop their potential; without it society became a tool of totalitarianism. There was often, however, a conflict between the individual's right to freedom of expression and the interests of society at large. The attempt to achieve a balance had always been a challenge, but clearly the right to freedom of expression did not seek to encourage moral corruption.

2. In recent decades, that right had been the subject of abuse for short-term political purposes, with the result that, in certain societies, the need to safeguard moral and spiritual values had been neglected. It was a growing threat and its adverse consequences had been widely recognized. Modern telecommunication technology was partly to blame, since the traditional electronic media were becoming ever more decentralized, providing greater individual choice, and services and networks were becoming less national and increasingly global in nature.

3. Notwithstanding the great contribution of telecommunications to the promotion of knowledge and prosperity, abuse by a few meant that there was more racist, xenophobic and pornographic material provided for individuals of all ages. Such decentralization was potentially dangerous and, if effective measures were not taken, human dignity and the healthy exchange of information were at risk. A subtle balance had to be struck between human rights and the public interest, with the adoption of comprehensive measures, including liability of both the creator and the user, self-regulation by the media, a heightened awareness and the development of parental control systems.

4. A global solution was required. The Commission and the Special Rapporteur on the right to freedom of opinion and expression should analyse the situation to find ways and means of ensuring responsible use of the new audio-visual and information services, including the Internet; control of the dissemination of content offensive to human dignity; and the protection of individuals of all ages against consequences harmful to their development. In informal consultations with his delegation, the Special Rapporteur had associated himself entirely with those concerns.

5. Mr. KHENNICHE (Movement against Racism and for Friendship among Peoples) said that a group of mothers of disappeared people had been formed in Istanbul two years previously and met every week for a sit-in. Despite harassment by the police, the movement was so determined and genuine that the Turkish Government, which was clearly embarrassed, must resolve the issue without delay.

6. Mr. MATINE-DAFTARY (Movement against Racism and for Friendship among Peoples), said that, as former Vice-President of the Iranian Bar Council, he considered that the situation in Iran called for strong action by the international community. The revised law on ta'zirat (discretionary punishments), which had come into effect in July 1996, prescribed such punishments as flogging and laid down punishments for acts that should not be considered crimes. One article in the law on moharabeh (war against God) dealt with espionage, providing for only one penalty - death - on the grounds that a person merely sentenced to imprisonment might live on comfortably for many years after release.

7. When the law was being promulgated, the State television network had broadcast a series of Islamist ideological programmes purporting to expose intellectuals from a wide spectrum of opinion as foreign agents. That was at a time when terrorist operations by the State within and outside Iran against nonconformists continued apace and when there had been an acceleration of public executions. Vigilante forces had generally been given official support.

8. Between 21 February and 21 March 1997, 30 executions had been reported, at least 8 of which were of political prisoners. Mr. Ghaffar Hosseini, a dissident intellectual, had suffered extrajudicial execution in November 1996. Mr. Kalimollah Tavvahodi, a writer and historian, had disappeared in Masshad. Mr. Faraj Sarkuhi had disappeared but had been released six weeks later after being tortured. Quite recently, Mr. Ibrahim Zalzadeh, a publisher and signatory of an open letter on censorship signed by 134 intellectuals, had disappeared and his family had been informed that his body could be collected. On 24 March 1997, the execution of Mr. Mohammad Asadi, a member of the Iranian Bar Association, had been reported, allegedly because he had been in contact with three people who had been executed for espionage.

9. He noted, in that connection, that the Iranian Embassy in Bonn had asserted that the death penalty was a rule imposed by the divine teachings of Islam and an instrument to guarantee the right to life for the whole of society. As the Commission was undoubtedly aware, with respect to a trial currently taking place in Berlin, a warrant had been issued for the arrest of the Minister of Intelligence and Security of the Islamic Republic of Iran.

10. Ms. GIRMA (African Association of Education for Development) said that some countries considered themselves champions of human rights, yet they sometimes made assertions without investigation, covering up for other friendly countries. The United States of America had asserted that one country had no cases of extrajudicial killings, when the point at issue was disappearances. The statement at the previous meeting by the representative of the United States had confirmed her Association's view that his country's double standards in human rights still held and that it would continue to protect countries with worse records than Cuba or China on arbitrary detention, extrajudicial executions and torture.

11. The voicelessness of a disappeared person filled his or her family with anguish. It was a crime to deny the suffering of all those concerned and not lend them a voice. Women were at the forefront in battling against enforced and involuntary disappearances. The level of disappearances had reportedly not yet reached the Working Group's magic number of 500 in any country of Africa, but there was no way of really knowing as long as civil society was not allowed to breathe freely. Many people were unaware that there was a place to which they could address their complaints, and that was another form of voicelessness.

12. Ms. OLGUIN (International Indian Treaty Council) said that, in Sri Lanka, the torture of detained Tamils had become endemic, to the extent that hundreds were subsequently acquitted because their confessions had been obtained by torture. Her organization urged that the Working Group on Arbitrary Detention, the Special Rapporteur on questions relevant to torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions visit Sri Lanka. Sri Lanka should also submit its first report to the Committee against Torture.

13. In the United States, the main problem facing thousands of incarcerated indigenous peoples was deprival of the freedom to exercise their native worship, although full facilities were provided for adherents of religions that were better understood. The problem was so great that, in 1995, the National Congress of American Indians, had declared it a human rights priority and called on the President and the Attorney-General of the United States to increase federal protection for native prisoners. However, through the Supreme Court, the United States Congress had weakened all the legal standards providing such protection.

14. For over 20 years, her organization had been bringing before the Commission the case of Mr. Leonard Peltier, who had just begun his twenty-second year of unjust imprisonment. The United States Government had admitted being directly responsible for his fraudulent extradition from Canada in 1976 by submitting false affidavits. The newly appointed Permanent Representative of the United States, who had recently addressed the Commission, had ardently advocated that Mr. Peltier should receive executive clemency and her organization urged the Commission to adopt a resolution to that effect.

15. Mr. GILANI (World Society of Victimology) said that the question of torture and disappearances in Jammu and Kashmir deserved the Commission's special attention. Some 113 people had died under torture there in 1996, and

the number had increased in recent months. In 1996, 3,890 people had been arrested and only 697 released. The Government of India had not responded to over 15,000 habeas corpus petitions and had failed to control its troops in Jammu and Kashmir. That was all the more disturbing since it asserted that a political process was under way in the territory.

16. In accordance with Commission resolution 1996/30, early steps needed to be taken in specific situations like that of Jammu and Kashmir. Until the dispute over the territory was settled, its people had to be saved from torture and other abuses, for which purpose they needed effective help from the United Nations.

17. Mr. GEBRIEL (World Federation of Democratic Youth) said that there were hundreds of political prisoners in the Sudan, held in secret detention centres where torture and ill-treatment were commonplace. Many Sudanese citizens had fled the country, including a former Prime Minister, Mr. Sadiq Mahdi, and scores of leaders of his Umma political party had been arrested.

18. A military tribunal in Khartoum was currently trying 31 people, including civilians, on charges of attempting to overthrow the Government. They were allowed no defence counsel, although they asserted that their confessions had been extracted under torture. Although the trial had been opened to the press, remarks by the president of the tribunal suggested that the result was a foregone conclusion.

19. In Turkey, torture and disappearances continued to occur, especially among the Kurds. About 10,000 people of Kurdish origin or sympathizers with the Kurdish cause, including former members of Parliament, intellectuals and journalists, were in prison on charges connected with their political or ideological beliefs. The Turkish Government should cease the use of excessive force against unarmed people.

20. Following the adoption of Commission resolution 1996/79, the Government of Nigeria had promised to improve its human rights record but had completely disregarded the contents of the resolution. More people had been imprisoned on political charges and detainees were being held in deplorable conditions, including the President-elect, Chief Moshood Abiola. Some 40 people, including the former President Olusegun Obasanjo, had been held since March 1995 after being convicted for an alleged coup d'état attempt while others had been imprisoned for having informed the media of the arrest of the alleged plotters. Following the execution of Ken Saro-Wiwa and 8 others in 1995, 19 Ogonis were awaiting trial. Moreover, Nigeria had refused to cooperate with the United Nations human rights mechanism in various ways, as the report on the situation of human rights in Nigeria (E/CN.4/1997/62) made clear.

21. In Bahrain, torture and death in custody were commonplace. Confessions taken under duress could be used as evidence and the Penal Code had been modified to allow the law-enforcement agencies a free hand in quelling protest. As a result of excessive force in the treatment of protesters, more than 10 people had died in 1996.

22. Mr. ESHAGHI (International Falcon Movement) said that, since a country's justice system was a reliable indicator of its respect for human rights, it was significant that the independence of the judiciary in the Islamic Republic of Iran had been sacrificed for political reasons. Iran's Constitution placed the executive, legislative and judicial branches under the authority of a single mullah, whose power was absolute.

23. Under the country's medieval political regime, any act or omission that threatened political authority could be considered a crime. Ambiguous qualifications, such as "enemy of God", appeared frequently in the Penal Code. Under recent legislation, providing information to opposition groups was considered to be an act of espionage punishable by death.

24. Most penalties, even under ordinary law, were implemented for the purpose of social repression. Consequently, the most effective punishments were the cruellest and those witnessed by the public. During the first two weeks of the Commission's current session, 22 public executions had taken place in Iran.

25. Most of the universally recognized principles of justice, such as equality before the law, the legal definition of crimes and punishments and the individualization of punishment, were flouted in Iran. The law allowed family members of a criminal to be punished for the latter's crime. Local authorities with no legislative power established regulations (such as mandatory dress codes for women) and penalties for infringing them.

26. It was high time that the international community took concerted action to address the situation, since the justice system was being used to perpetrate systematic human rights violations and to protect the existing political order at any price. Torture had been institutionalized in the name of Islam and terror brigades had been sent abroad to carry out death sentences against those who opposed the regime. The Commission should firmly condemn those violations in a strong resolution.

27. Mr. JOINET (Chairman-Rapporteur of the Working Group on Arbitrary Detention) said that he appreciated both the encouragement and the criticisms expressed by Governments with regard to the Working Group's report (E/CN.4/1997/4 and Add.1, Add.2 and Corr.1 and Add.3). The arguments about the legal and other aspects of the Working Group's mandate boiled down to three issues: the Working Group's position on the scope of its mandate; the question of whether the Working Group should be replaced by a special rapporteur; and the possibility of reducing the length of its mandate (currently three years).

28. Only the Commission could decide whether the Working Group should be competent to consider cases of post-trail imprisonment. The question as posed was too simplistic, however, since it was necessary to take account of the procedural conditions in which a sentence was imposed. If the procedure applied violated the right to due process to such an extent that the deprivation of liberty could be considered arbitrary, the case should come within the Working Group's competence.

29. With respect to the choice between a working group or a special rapporteur, he recalled that the Commission had originally decided to establish a working group because only experts from different regions could take due account of the specific features of the legal systems in each of those regions. Experience had shown that the participation, in country missions, of the Working Group member from the region concerned was much appreciated.

30. With respect to the length of the mandate, the Working Group was rarely able to complete its consideration of communications in less than a year, and the preparations for country missions took at least a year. If the mandate were reduced to one year, therefore, it would seriously compromise the Working Group's activities. Moreover, constant re-elections could politicize the Working Group and undermine its independence.

31. The Working Group's mandate should remain somewhat flexible. To emphasize that it did not have supranational jurisdiction, the Working Group had decided to term its conclusions "opinions" rather than "decisions" and to give more balanced consideration to communications on cases in which a final sentence of imprisonment had been pronounced.

Statements in exercise of the right of reply

32. Mr. YIMER (Ethiopia) said that the International Movement for Fraternal Union among Races and Peoples had once again rehashed its litany of fabrications and misrepresentations concerning Ethiopia. The person who had spoken on behalf of that NGO represented a political organization in Ethiopia calling itself the Ethiopian Human Rights Council. There were currently 64 registered political parties in Ethiopia. The so-called Ethiopian Human Rights Council was not among them because it posed as a human rights organization. It was free to register as a political organization and to advance its political agenda openly.

33. His Government had nothing to do with the internal problems of the Confederation of Ethiopian Trade Unions or the Ethiopian Teachers Association. The land redistribution in the Amhara Regional State of Ethiopia had been decided upon by the Regional Parliament in accordance with the Federal Constitution. Those dissatisfied with the outcome were free to petition the regional government for redress. Some university students, who had tried to stage a demonstration in the federal capital, had been arrested solely because they had failed to obtain the required permit. They had subsequently been released.

34. He regretted that the NGO in question continued to lend its name and consultative status to the warped portrayal of human rights in Ethiopia conveyed by the so-called Human Rights Council.

35. Mr. FERNÁNDEZ (Philippines) said that his delegation took exception to paragraphs 287 to 293 of the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1997/34). Since 1995, the Philippine Commission on Human Rights (PCHR) had been investigating the case of the health worker who had disappeared in Mindanao. It had concluded that the available evidence was inadequate not only to determine who was responsible,

but even to establish whether it was a case of disappearance or not. In the case of the farmer allegedly arrested in Misamis Oriental, PCHR had extended financial aid to his family after the army unit concerned had failed to produce his body, in defiance of a court order. PCHR had been unable to institute criminal charges based on circumstantial evidence, because that could prejudice a pending appeal of the respondents.

36. The sweeping statement about the "lack of communication from the Government of the Philippines regarding the outstanding cases" was utterly inaccurate. The Working Group had clarified many cases, largely owing to the cooperation of his Government. The constitutional establishment of the independent PCHR and the conclusion of a Memorandum of Agreement with Families of Victims of Involuntary Disappearances in order to extend financial assistance to victims evidenced the Government's concern about disappearances.

37. The delays in resolving cases were attributable to the justice system's adherence to due process, which required the production of sufficient evidence, which was often unavailable because of a lack of witnesses. To help correct that situation, the Government had established a Witness Protection Programme.

38. Congress was considering several bills that would incorporate the provisions of the Declaration on the Protection of All Persons from Enforced Disappearance into domestic law. The decline in the number of disappearances in the Philippines, noted in paragraph 289 of the report, showed that the authorities' efforts had borne fruit.

39. Ms. NIU Lihua (China) said that the person who had spoken on behalf of the Transnational Radical Party, claiming to be the sister of Mr. Wei Jingsheng, had falsely stated that the latter had been imprisoned for exercising freedom of speech and human rights activities. As noted in the report of the Special Rapporteur on freedom of opinion and expression (E/CN.4/1997/31, paras. 27-38), Mr. Wei Jingsheng had been convicted, in an open and fair trial, of conspiring to overthrow the Government. Since his detention, he had been treated according to humanitarian principles and his rights and interests had been protected.

40. The representative of the Society for Threatened Peoples had also spread lies about China. However, the Chinese Government's achievements in promoting and protecting human rights could not be written off by such attacks. The Commission was no place for rumour-mongering.

41. Mrs. HERTZ (Chile) said, with respect to the NGO statement concerning the murder of Mr. Carmelo Soria, that her Government had categorically condemned that cowardly crime, committed by agents of the State during the military dictatorship, and had expressed its solidarity with the victim's family.

42. The Soria case had been reopened in 1993 as a result of her Government's efforts. However, no further legal recourse was available, since the Supreme Court had found, in a final ruling, that the amnesty declared during the dictatorship applied to the case. Although her Government regretted that decision, it had had no choice but to accept it.

43. Her Government had offered to make moral and material reparation to Mr. Soria's family and to his home country of Spain by formally reiterating its recognition that State agents had been responsible for the murder; expressing its deep regret and affirming that the democratic authorities had tried to reopen the investigation; erecting a monument in memory of the victim in a place of symbolic significance; and donating a sum of money to a foundation to be established by the family and friends of Mr. Soria.

44. Mr. AL-HADDAD (Observer for Bahrain) said that several NGOs had made inaccurate references to his country. All criminals in Bahrain enjoyed full human rights, including the right to a lawyer and the right to receive visits from relatives. Furthermore, his Government had recently signed a memorandum of understanding with the International Committee of the Red Cross (ICRC) which allowed ICRC representatives to visit detainees without interference. The actions of a small group of terrorists would not alter his Government's firm commitment to the promotion of all human rights.

45. Mr. MUSA HITAM (Malaysia) said he wished to clarify some points with regard to the defamation suit mentioned in the section on Malaysia in the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1997/32, paras. 122-134). The Special Rapporteur was among those being sued, by private citizens, over an article entitled "Malaysian justice on trial" and he had invoked the diplomatic immunity clause of the 1946 Convention on Privileges and Immunities of the United Nations. The Government, which was not a party to the suit, had already issued the relevant certificate in accordance with the International Organization (Privileges and Immunities) Act of 1992, and the Special Rapporteur's application to set aside the writ had been adjourned until 9 April 1997.

46. It was ironic that the Government should be called upon to intervene in that particular case when, at the same time, it was expected to respect fully the independence of the judiciary. The Commission could rest assured that Malaysia would honour all the conventions to which it was a party.

47. Mr. MORJANE (Observer for Tunisia) said that Tunisian society had changed profoundly since 1987. Legislation had been passed to guarantee civil and political rights in accordance with international instruments and the power of the judiciary had been strengthened. His Government had restructured the economy and signed an agreement of association with the European Union. It was successfully combating poverty and deprivation and standards of living had risen enormously.

48. It was generally agreed that the Commission on Human Rights could not achieve its objectives in an atmosphere of confrontation. Responsible NGOs had an important role to play in that process, and his Government welcomed the establishment of various regional and international NGOs in Tunisia. Unfortunately, one of those organizations had ulterior motives for making groundless accusations about the human rights situation in Tunisia.

49. The President of Tunisia had recently announced a series of political reforms aimed at strengthening the rule of law and consolidating democracy and pluralism. Various measures were planned to end violence and extremism and make political parties more responsive to the wishes of the people. The

Government had established a national committee for human rights education to promote a human rights culture in educational establishments, law schools, police academies and detention centres, and unannounced inspections of prisons had been introduced.

50. Mr. ULUÇEVIK (Observer for Turkey) said that at a time when his country was vigorously pursuing human rights reform, the spokesman for the European Union had been quick to condemn abuses there but turned a blind eye to the numerous and serious human rights violations nearer home. The Union had done nothing to put a stop to the abhorrent manifestations of racism and xenophobia that had led to loss of life, mostly among migrant workers and their families, in some of its countries, and had adopted no firm measures to end terrorist activities linked to the Kurdish Workers' Party (PKK).

51. Mr. TOUIMI (Observer for Morocco) said that a certain Mr. Lahcen had spoken on behalf of the International Association of Democratic Lawyers, although his name was not listed for that organization in the provisional list of attendance (E/CN.4/1997/Misc.2). Governments could not be expected to enter into a serious dialogue with NGOS without knowing whom they were addressing, or what the speakers addressing the Commission represented.

52. The CHAIRMAN confirmed that Mr. Lahcen was accredited to speak on behalf of the International Association of Democratic Lawyers. No one was allowed to address the Commission until his or her credentials had been checked.

53. Mr. TOUIMI (Observer for Morocco) said that the person in question had merely paraphrased, in a selective and self-serving way, the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1997/34, paras. 238-248), ignoring all the positive aspects in the report to produce a piece of propaganda. For example, his reference to hundreds of disappeared persons ignored the fact that the Government of Morocco was cooperating fully with the Working Group in efforts to trace those people. In the case of Mohamed Daddach, it was true that he was still in Kénitra prison, but only because he had refused the offer of a transfer to a prison in southern Morocco. His Government had sent a note verbale to the Working Group with its comments on the report, the contents of which would be made available to the Commission in due course.

54. Mr. SIMKHADA (Nepal), having strongly urged the Secretariat to avoid selectivity in dealing with the inscriptions of speakers on certain topics, said that he welcomed the recognition by the Working Group on Arbitrary Detention of the constitutional and legislative advances made in Nepal in recent years. His Government was currently studying the conclusions and recommendations in the Working Group's report (E/CN.4/1997/4/Add.2) and was formulating a detailed reply.

55. The plight of the Bhutanese refugees in the camps in eastern Nepal was well documented and he was disappointed that the Working Group's report (E/CN.4/1997/4) shed no light on the real problem, namely, why so many people had had to seek refuge in the first place. The seventh, and most recent, high-level talks between the Governments of Nepal and Bhutan had unfortunately stalled without producing any lasting solution. However, his Government would

continue to give the highest priority to the issue and, given the traditional friendly relations between the two countries, a solution would eventually be found.

56. With regard to the report by the Special Rapporteur on questions relevant to torture (E/CN.4/1997/7 and 7/Add.1), his Government had recently sent the Special Rapporteur its written response.

57. Mr. AMAT FORÉS (Cuba) said it was outrageous that the representative of the United States of America, with its abysmal human rights record should be lecturing the Commission and even inventing a new category of "exotic" human rights. He wondered whether the rights of African Americans to equality and freedom from discrimination, the rights of Latinos and Mexican Americans and their families to food, health and education, and the rights of Cubans to development and self-determination were considered to be "exotic". The blockade of Cuba by the United States was an act of genocide that violated the fundamental human rights of the Cuban people.

58. Mr. RAMLAWI (Observer for Palestine) said that the call by the representative of the United States for the deletion of the agenda item on the violation of human rights in the occupied Arab territories, including Palestine was directly opposed to the Commission's wishes, as expressed in a resolution it had recently adopted which reaffirmed the high priority it attached to the item. The United States position was reminiscent of similar situations in the Security Council, where the United States often opposed the entire international community.

59. No justification had been given for the proposal to abolish the item. The flouting by the United States of the will of the international community in respect of Israeli practices which violated human rights and the principles of international law stripped its Government of any credibility in its sponsorship of the Middle East peace process.

60. U AYE (Observer for the Union of Myanmar) said it was surprising that biased observations on developments in his country Myanmar should have come from a representative of the United States who had had the opportunity to visit the country, to converse extensively with high government officials and to see for himself the tremendous pace of positive developments. The Union of Myanmar had long been officially recognized by that name in the United Nations and his reference to the country by a defunct appellation disregarded the principles of sovereign equality.

61. Myanmar was in the midst of a comprehensive effort to become a peaceful, modern and developed State. The National Convention, with the participation of political parties and all the national races, was the most appropriate forum for such a transformation.

62. The "rights and choices" of the people of Myanmar were already being given the utmost attention, as amply demonstrated by the multitude of constructive activities currently being undertaken by the Government, which had repeatedly made it clear that it had no desire whatsoever to hold State responsibilities any longer than was absolutely necessary.

63. At the Commission's current session, many delegations were striving to dispense with unfounded accusations and confrontation and to proceed through cooperation and accommodation towards the promotion of human rights throughout the world. It was most unfortunate that some speakers were determined to continue on the course of confrontation and to politicize the issue of human rights.

64. Mr. SALMAN (Observer for Iraq) said that the United States representative had contended that the intervention by the Iraqi Government in the north of that country was a violation of human rights, although the north fell under Iraqi sovereignty in accordance with international law and the United Nations Charter, for which the United States representative had revealed contempt by his allegations. The intervention had been undertaken at the request of Kurdish leaders with a view to ending the strife among Kurdish factions that was fuelled by the United States and other countries.

65. It was common knowledge that the United States had forced the Kurds to ask for secession from Iraq and had dangled before them promises designed to disintegrate the country and foment dissent. The only harvest they had reaped was hunger and death. The thousands of refugees transported by the United States from the north of Iraq to Guam, a United States dependency, testified to the irresponsible and unacceptable intelligence methods used by that country.

66. The false accusations by the United States were an attempt to cover up that country's own crimes against the people of Iraq through continued armed aggression and terrorism of the civilian population, as well as the imposition of embargos designed to cut off the delivery of foodstuffs to the Iraqi people and thereby destabilize the country. Ms. Madeleine Albright, when United States representative to the United Nations, had irresponsibly stated that the United States would not agree to a lifting of the embargo against Iraq, yet had simultaneously advocated intervention in Iraq's internal affairs. No one would be deceived any longer by such duplicitous positions.

67. Mr. LI Baodong (China) said that representatives of the United States had the bad habit of pointing their fingers at other countries, as if the United States was the master of the world and all other countries had to bow to it. That was an anachronism: the world was changing, and the peoples concerned were best qualified to judge the human rights records of their own Governments.

68. The United States representative had probably forgotten that the human rights situation in his own country was far from brilliant, and the scourge of racism was still strong. He should put his own house in order and devote more attention to domestic affairs.

69. He had remarked that his country would not seek confrontation with China but, in the same breath, he had flagrantly provoked confrontation. Dialogue and confrontation were incompatible. If the United States really wished to end confrontation, it should show that intention through concrete deeds, by putting an end to all acts of confrontation and returning to the road of dialogue.

INDIGENOUS ISSUES (agenda item 24) (E/CN.4/1997/100, 101 and 102; E/CN.4/Sub.2/1996/21)

70. Mr. URRUTIA (Chairperson-Rapporteur of the Working Group on indigenous issues), introducing the Working Group's report on its second session (E/CN.4/1997/102), said that it differed from the previous report in that it reflected the positions of both Governments and the representatives of indigenous peoples.

71. At its first session, the Working Group had discussed in general terms the "draft United Nations declaration on the rights of indigenous peoples" approved by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. That exercise had elucidated the positions of Governments on the draft declaration and permitted three conclusions to be drawn: first, that the positions of Governments diverged considerably from the draft, secondly, that there was broad agreement on many specific aspects of the text and, thirdly, that the draft, as formulated, did not facilitate discussion.

72. The second session had been organized to take account of all those factors. Interrelated articles had been clustered, the articles presenting fewer difficulties had been taken up first and participants had been asked to eschew general comments and make specific proposals on individual articles.

73. As a result, the general discussion stage had been left behind and a sufficient number of concrete proposals made that the start of substantive negotiations could be envisaged.

74. If substantive negotiations were to be undertaken shortly, it was essential to adopt an imaginative approach to the modalities to be used for the participation of the representatives of the indigenous peoples and the Working Group was seeking the Commission's guidance in that respect. He, himself, had been asked by the Working Group to consult representatives of indigenous peoples and interested delegations with a view to reaching a consensus on the future work, in the hope that the Working Group would be able to begin substantive negotiations at its next session and that the draft declaration would be ready for approval by the General Assembly before the close of the International Decade of the World's Indigenous People.

75. Ms. KOVALSKA (Ukraine) said that the adoption of a strong declaration on the rights of indigenous peoples, like the establishment of a permanent indigenous people's forum within the United Nations, was a central goal of the International Decade. The task of finalizing the draft declaration was, however, a complex and time-consuming one, largely because there was no generally accepted definition of indigenous peoples. Moreover, the pivotal element of the draft declaration was self-determination - a fundamental principle of international law whose link with human rights had been recognized in many international instruments and declarations - but there was no clear definition of self-determination either. However, there appeared to be a consensus emerging on what might be called the right to internal self-determination in multi-ethnic democratic countries and the Working Group should strive to develop a common understanding of that right. The direct participation of representatives of indigenous organizations in the Working Group was an encouraging step in that direction.

76. Standard-setting by the United Nations concerning the human rights of minorities and indigenous peoples was lagging behind the challenges of the modern world and many States consequently tended to look for solutions in their national constitutions and historical frameworks, or to borrow from the experience of other countries. That was the road her country had chosen in elaborating a draft national policy pertaining to indigenous peoples.

77. In the context of the draft declaration, a distinction needed to be made between indigenous peoples living a tribal existence in isolated enclaves (reservations) and those integrated with the rest of society. In a sense, since the end of the era of great invasions and colonialism, all peoples could be characterized as indigenous. Thus, identification of a group as indigenous should be used as a supplementary criterion rather than a fundamental one. As it stood, however, the draft declaration was heavily oriented towards tribal peoples, an imbalance that should be eliminated.

78. Translating the right to internal self-determination into reality required special efforts on the part of Governments. Her delegation therefore called upon those States that had not yet done so to ratify or accede to the International Covenants on Human Rights and invited the States parties to those instruments to bring their national law into line with the international norms.

79. Lastly, being aware of the complexity and diversity of indigenous issues, her delegation would make an active contribution to the work of establishing a permanent forum for indigenous peoples so that a fruitful dialogue among all the parties concerned could be instituted.

80. Mr. ROSING (Denmark), speaking on behalf of the Nordic countries and the Greenland Home Rule Government, said that though some progress had been made in the three years since the start of the International Decade of the World's Indigenous People, further action was needed in various areas. In particular, the Commission should take quick and decisive steps towards the establishment of a permanent forum in the United Nations for indigenous peoples. As part of the process of consultations on that question, a United Nations workshop had been held at Copenhagen in June 1995 and various models for such a forum had been discussed, though no definite conclusions had been reached. The Nordic countries fully supported the proposal for a second United Nations workshop on a permanent forum and welcomed the generous offer by the Government of Chile to host it.

81. As for the basic features of a permanent forum, it should have a broad scope and mandate covering issues such as development, the environment, culture and human rights. It should report to the Economic and Social Council and be composed of representatives of both Governments and indigenous peoples.

82. At its fourteenth session, the Working Group on Indigenous Populations had stated that, while the establishment of a permanent forum was a high priority, the forum should not replace the Working Group itself. The Nordic countries agreed that there was a strong need for continuation of the Working Group's review of developments.

83. The adoption of a declaration on indigenous rights was a major objective of the Decade; and it was unfortunate that no breakthrough in that direction had yet occurred. The Nordic countries, which called for the earliest possible adoption of the declaration, thought that all concerned should continue to do their utmost to ensure the widest possible access of indigenous representatives to the Working Group's meetings. They recommended that consultations should take place to discuss the Group's working methods prior to its next session.

84. The Voluntary Fund for the International Decade was currently operational: the Nordic countries were already contributing to it and urged others to do likewise. They welcomed the recent nomination of indigenous representatives to serve as members of the Advisory Group of the Fund and supported the objective that the Fund should contribute to such Decade activities as the establishment of a permanent forum, capacity-building and training in human rights, and dissemination of information about indigenous peoples and the Decade.

85. As part of the programme of the Decade, the Nordic countries had been actively involved in international meetings of indigenous and forest-dependent peoples on the management, conservation and sustainable development of forests. They had sponsored an international workshop on indigenous peoples and forests, hosted by the Colombian Government in December 1996. Indigenous peoples should be closely involved in the preparation of programmes and plans for the forthcoming special session of the General Assembly on sustainable development.

86. The Commission should be active in all the areas he had mentioned, and Governments and international and non-governmental organizations should support the International Decade by providing resources for activities to implement the Decade's goals, in cooperation with indigenous peoples.

The meeting rose at 6.15 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 32nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 1 April 1997, at 6 p.m.

Chairman:	Mrs. BAUTISTA (Vice-Chairman)	(Philippines)
later:	Mr. SOMOL (Chairman)	(Czech Republic)

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INDIGENOUS ISSUES (continued)

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GE.97-12799 (E)

The meeting was called to order at 6.25 p.m.

INDIGENOUS ISSUES (agenda item 24) (continued) (E/CN.4/1997/100, 101 and 102; E/CN.4/Sub.2/1996/21)

1. Mr. LILLO (Chile) said that the inclusion of indigenous issues on the Commission's agenda reflected a growing awareness in the international community of the highly vulnerable situation of indigenous peoples.

2. He commended the progress made by the Working Group on the draft declaration on the rights of indigenous peoples but was deeply concerned at the intolerance evidenced during its second session. While he understood the frustration of indigenous organizations over delays in concluding work on the draft declaration, it was of the utmost importance to realize that discussion and negotiation at the governmental level was an essential preliminary to the adoption of the declaration by the General Assembly. As a country genuinely committed to the promotion of indigenous rights Chile viewed with concern the disruptive attitude of some indigenous organizations and trusted that reason and good sense would prevail at the third session of the Working Group.

3. His Government strongly supported the establishment of a permanent forum in the United Nations system for indigenous people. The excellent report on existing mechanisms, procedures and programmes within the United Nations concerning indigenous people (A/51/493) drew attention, in paragraph 166, to the striking absence of a mechanism to ensure regular exchange of information between interested parties. That absence must be viewed with concern, particularly as the existence of such deficiencies and contradictions within the system had also been recognized by other United Nations bodies concerned and by indigenous organizations. It was therefore important to continue the discussion of the proposed forum as a priority objective of the Decade. His Government hoped that the Commission would adopt by consensus the resolution on the holding of a second workshop on that subject in Chile.

4. Ms. RIKOVA (Russian Federation) said that the Federation, in which several dozen indigenous minority peoples had their home, recognized its responsibility to safeguard their rights and interests and attached the utmost importance to work on the draft declaration. She welcomed the wide participation of indigenous organizations in the second session of the Working Group, which confirmed the rightness of the decision to liberalize their access to such bodies. The session, which had been marked by frank and sometimes sharp exchanges, had brought the adoption of the declaration a step nearer; but its full adoption would be more rapidly achieved by mutual recognition of the interests of all parties involved than by confrontation. The Federation supported the programme of activities for the Decade and welcomed the increasing involvement of United Nations agencies and programmes. The needs of indigenous people should also be duly reflected in the reorganized structure of the Centre for Human Rights. In her country, the National Organizing Committee for the Decade had adopted a comprehensive plan that included such matters as legal and economic support for the safeguarding and development of traditional lifestyles of the indigenous peoples of the North, environmental protection, education, health and the revival of national cultures.

5. It was clear from the report on existing mechanisms, programmes and procedures (A/51/493) that they made no provision for a regular exchange of information or for the effective participation of indigenous peoples in the activities of the United Nations system - a decisive argument for the creation of a permanent forum on a broad representational basis. Her delegation supported the proposal for the holding of a second workshop on the question and welcomed the offer by the Government of Chile to act as host country.

6. Mr. LONG Xuegun (China) said that, as a result of European colonialist policies, many indigenous peoples were still unable to enjoy full social, cultural, civil and political rights. Although there were no indigenous issues in China, whose peoples had lived for many generations on their own land and had successfully repelled colonialist and other aggressors, his Government was deeply concerned at the protection of the rights of indigenous people, with whose unfortunate experiences it profoundly sympathized. It applauded the various activities undertaken by United Nations bodies on their behalf.

7. His delegation believed that the Working Group on the draft declaration should take full account not only of points raised in the draft submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, but also of suggestions made by representatives of both States and indigenous organizations. The definition of an indigenous people and the scope of application of the declaration deserved particular attention. Those peoples had features which uniquely differentiated them from other groups and should be adequately reflected in the definitions included in the draft in order to ensure that the special rights recognized were applied to genuinely indigenous people. His delegation hoped that a consensus text would be submitted to the Commission at an early date and was ready to join in a common effort to achieve that end.

8. Mr. QUAYES (Bangladesh) said that his delegation based its approach to indigenous issues on the conviction that the settler-indigenous dichotomy - the imposition of external value systems on original or traditional inhabitants, accompanied by their total dispossession and marginalization - lay at their root. The report on existing mechanisms, procedures and programmes within the United Nations concerning indigenous people (A/51/493) pointed to a notable difference in the level of activity of the bodies concerned. In spite of the growing number of programmes and projects being implemented, the continuing lack of a clear set of criteria to identify genuine claimants to indigenous status should be viewed with concern.

9. His delegation was puzzled by the persistent refusal of some to recognize the need for a focused but inclusive definition or a broad set of criteria for identifying indigenous people. The Coordinator of the Decade, for example, had referred at the fourteenth session of the Working Group on Indigenous Populations to 300 million indigenous people of the world, but his delegation's request for information on how that figure had been arrived at had received no response. Nor had its request to observer States for information on the criteria by which they distinguished their indigenous from their non-indigenous population. There was, perhaps, a need to recognize a

category of "indigenous people minus", which would exclude those who had benefited from the process of decolonization and formed independent nation States.

10. Turning to the report on the second session of the Working Group established in accordance with Commission resolution 1995/32 (E/CN.4/1997/102), he commended the efficient manner in which its Chairman had conducted its deliberations, at times in a somewhat charged atmosphere, but thought that attention could have been more usefully focused on substantive work on the draft declaration. The existing draft did not adequately recognize the diverse situations of indigenous peoples throughout the world, including those that had obtained statehood through decolonization. The draft should also cover the continued threat to indigenous cultures posed by the impact of "global" culture. His delegation hoped that NGOs and non-State organizations of indigenous people would continue their valuable contribution to the work of the inter-sessional Group.

11. During the Group's second session, his delegation had reacted with concern to the expression of substantive and interpretative views by a representative of the ILO secretariat, which clearly exceeded secretariat competence.

12. Mr. WILSON (New Zealand) reaffirmed his Government's commitment to the objectives of the Decade and welcomed the report on activities undertaken over the two preceding years (E/CN.4/1997/101). His delegation looked forward in particular to the implementation of the fellowship programme for indigenous people at the Centre for Human Rights, and welcomed the establishment of an "indigenous unit" within the Centre. It also applauded the increased priority being given within the United Nations system to indigenous issues, which would be furthered by the inter-agency meeting coordinated by the Centre. It welcomed the commitment of specialized agencies to work in that area. The Secretary-General's comprehensive report on existing United Nations provisions for indigenous issues (A/51/453) deserved further consideration and discussion.

13. His Government had chosen to make 1995, the first year of the Decade, the Year of the Maori Language and had provided the Maori Language Commission with $NZ 500,000 to organize activities and promotional projects and another $NZ 400,000 to help fund a national Maori language survey. To the underlying theme of language-specific celebrations were to be added education and Maori arts.

14. His delegation hoped that a wide international consensus would be reached on the draft declaration. To that end it was important that the Committee on Non-Governmental Organizations and the Economic and Social Council should take measures to accelerate the process of accrediting outstanding applications from indigenous organizations. His delegation was pleased to note the large number of delegates of such organizations that had participated in the most recent session of the Sub-Commission's Working Group on Indigenous Populations. The focus on health issues at that session had facilitated a valuable exchange of views between experts within the United Nations system, indigenous communities and Governments.. His own

Government strongly supported the work of the World Health Organization specifically directed to improving the health of indigenous peoples.

15. He took the opportunity to remind other delegations that New Zealand was to introduce the draft resolution on the Sub-Commission's Working Group on Indigenous Populations and the International Decade of the World's Indigenous People. He hoped that discussion of the text with all interested delegations would lead to its adoption by consensus.

16. Mr. Somol (Czech Republic) took the Chair.

17. Mr. CHAVEZ (Observer for Peru) said that in Peru, which was a multi-ethnic and multi-cultural country, all aboriginal languages had official status in districts where they predominated, and rural and indigenous communities enjoyed autonomy and inalienable ownership of their land. Accordingly, his delegation took particular interest in the deliberations of the Working Group on the draft declaration and welcomed the significant progress made over the past year, not only on specific points but in its method of work, which set aside for later consideration matters on which opinions were most divided. His delegation shared, however, the concern expressed by many others regarding the tactics adopted by some representatives of indigenous peoples. While their participation in the work of drafting was essential, experience had shown that progress could only be made more rapidly in an atmosphere of mutual trust that avoided sterile procedural debates.

18. His delegation agreed with others that further consideration should be given to the idea of a permanent forum for indigenous people at a second workshop, preferably held in Chile. His country's view had always been that it was for the State to represent the interests and aspirations of all its nationals, including indigenous people, and Peru would give careful consideration to any options that might contribute to the protection and promotion of their rights. The idea of a permanent forum should, however, be considered in close conjunction with the declaration and should be evaluated in the light of the substantive progress achieved in preparing the draft.

19. Mr. VIGNY (Observer for Switzerland) expressed his Government's support both for the adoption of the declaration and for the establishment of a permanent forum, which would allow indigenous people to bring their views and concerns to the attention of the international community. Such people were sometimes in urgent need of special protection for their way of life and culture not adequately afforded by existing international instruments, and the declaration should both protect their interests and include an undertaking on their part to respect the wider rights enshrined in other human rights instruments, especially the Universal Declaration. It was essential that impetus should not be lost in sterile discussions over definitions. What was needed was a realistic approach based on mutual confidence. Discussions must be constructive, reflecting true international cooperation and directed towards the concrete solution of the manifold problems involved.

20. One of the keys to their solution might well be the principle of subsidiarity, that what could be decided or put into effect locally should not necessarily be made uniform or centralized at the national level. The long federal experience of Switzerland had demonstrated that that principle could

meet the needs of ethnic, religious and linguistic minorities and of indigenous peoples while ensuring the cohesion and development of the population as a whole. Indigenous peoples should be neither isolated nor assimilated but integrated, an objective to which the establishment of a permanent forum would be a valuable adjunct. Switzerland was also working towards that end by providing logistic and financial support to indigenous delegations in Geneva and through its contributions to the Voluntary Fund. Although Switzerland had no indigenous people on its territory, it recognized their especially vulnerable situation and regarded support for them as a barometer of respect for human rights.

21. Ms. TALVET (Observer for Estonia) said that, while her delegation applauded the increasing attention being given by the international community to indigenous issues, it was imperative that rapid progress should be made towards the achievement of the main objectives of the Decade: the adoption of the draft declaration and the establishment of a permanent forum for indigenous people within the United Nations system.

22. The tension and bitterness evident in the sessions of the Sub-Commission's Working Group on Indigenous Populations and the Working Group on the draft declaration reflected the growing impatience of indigenous people, who hoped that, even if not legally binding, the declaration might exert moral pressure on Governments to ameliorate their condition. The survival of many numerically small populations was in fact at stake, and, even in countries with long democratic traditions, eradicating the vestiges of past repression was no easy task; and in countries where human rights were neglected the task was even greater, as the High Commissioner for Human Rights had emphasized. Governments should not arbitrarily hinder contacts between indigenous peoples and between them and groups and individuals working to improve their situation.

23. Her delegation believed that changes in the procedure and functioning of the Commission's Working Group might give impetus to the drafting process. As far as the permanent forum was concerned, there was, in her view, no further need for discussion of the principle; attention should be concentrated on the precise ways in which it should function. She warmly appreciated the offer by the Government of Chile to host the second workshop on the forum.

24. Mr. GONZALEZ DE LINARES (Spain) expressed his delegation's support for the establishment of a permanent forum and for the participation of indigenous peoples in activities to that end. It also supported the principle that the forum should function under the aegis of the Economic and Social Council and include in its mandate matters relating to human rights, development, the environment, health, education and culture. Its membership should comprise government and indigenous representatives, and independent experts able to provide assistance to indigenous organizations, whether or not in consultative status. Its constitution might well draw on the experience acquired by the Latin American region in setting up the Development Fund for Indigenous Peoples of Latin America and the Caribbean at the Second Summit of Latin American Heads of State and Government in 1992, of which Spain was a founding member and current vice-president. It was based on the innovative mechanism of promoting sustainable self-development of indigenous peoples of the region by establishing a forum for dialogue and consultation between

governments, indigenous peoples, NGOs and international organizations. Its successful functioning had been demonstrated at the first General Assembly of the Fund in Bolivia in 1995.

25. The contribution of Spain to the preservation of the unique character of indigenous peoples had two main policy objectives: indigenous participation in international and national forums of every kind and in the formulation of their own development plans; and the financing of educational and training programmes for indigenous leaders, including training in the media and new technologies. Spain had contributed more than US$ 5 million over the past year to a number of projects in such fields as health, biodiversity, environment and the advancement of indigenous women. In that connection, he drew attention to the International Conference on the Intellectual Property of Indigenous Peoples to be held in Madrid in September 1997.

26. Mr. CAMPBELL (Observer for Australia) said that his Government was engaged in a process of reconciliation between its indigenous and non-indigenous citizens; a major forthcoming event in that process was a convention hosted by the Council for Aboriginal Reconciliation, which would be attended by more than 1,000 people from all over the world. In line with its conviction that wide consultation was essential in dealing with indigenous issues, his Government was actively encouraging indigenous peoples to participate as fully as possible in discussions of the complex issues raised by the draft declaration. It welcomed the introduction of new themes for discussion in the Working Group on Indigenous Populations and supported the International Decade, which must be based on true partnership and mutual respect.

27. Australians generally were developing a deeper appreciation of the diversity of Aboriginal and Torres Strait Islander cultures and aspirations and of their contribution to the enrichment of Australian society. Within the framework of the Decade, the Aboriginal and Torres Strait Islander Commission had, among other activities, prepared a plain English version of the draft declaration accompanied by an analysis of the draft and an information kit.

28. Mr. GILBERT (Indigenous World Association) stressed the importance of the earliest possible adoption of the draft declaration, which should be effected by the General Assembly in line with Economic and Social Council decision 1995/32. There was a grave risk that the prolongation of discussion of the draft would weaken the principles intended to protect the rights of indigenous peoples.

29. Specifically, the Association insisted on the use of the phrase "indigenous peoples" throughout the text and opposed the use of "minorities", which could lead to confusion of indigenous issues with those relating to minority groups in general. The principle of self-determination must also be maintained in full force since it embodied an essential human right which should not be denied to indigenous peoples by any nation State. Within the framework of the International Decade, the Association called for greater political and economic commitment by Governments to educating public opinion about indigenous issues. It specifically requested the United States Government to hold regional meetings to inform native American tribal

organizations about United Nations activities in promoting indigenous rights, and to encourage them to participate and work on the draft declaration.

30. He welcomed the wide support expressed for the establishment of a permanent forum, whose mandate should cover economic, social, development, environmental, cultural and human rights issues. It should also include provision for receiving complaints about any neglect or abuse of their rights, and should monitor the implementation of the declaration and assist the achievement of independence by indigenous nations from colonial States. The forum should not duplicate the activities of the Working Group on Indigenous Populations but should operate at a higher level within the United Nations system. Its establishment should be completed during the International Decade.

31. He urged the completion of the Special Rapporteur's study on treaties and other constructive agreements between States and indigenous populations, which should be made available to indigenous peoples.

32. Finally, he wished to draw attention to two violations of indigenous rights in the United States. The first concerned the proposed Fence Lake Coal Mine Project in New Mexico, which would destroy the traditional pilgrimage trail to the sacred Salt Lake and jeopardize the use of the sacred shrine. There was in fact very little protection of indigenous religions in general in the United States. The second violation concerned the requirement of approval by the United States Government of casino gambling enterprises on Indian reservations. That requirement was in clear violation of indigenous self-determination.

33. Ms. DOROUGH (Indian Law Resource Center) said that her organization, which provided free legal assistance to indigenous peoples in North, Central and South America, commended the Inter-American Commission on Human Rights for its efforts to advance indigenous rights but had reservations about the proposed American Declaration on the Rights of Indigenous Peoples recently adopted by that Commission and its recommendation that members of the Organization of American States (OAS) should adopt the Declaration at its 1998 General Assembly. She urged representatives of indigenous peoples to seek information as soon as possible from OAS, and called on Governments intent on amending the proposed Declaration to consult with indigenous peoples.

34. The principle of indigenous peoples' participation in United Nations decision-making had been recognized by a number of international organizations, including the Working Group on Indigenous Populations. Of special significance was the decision of the Commission on Human Rights to ensure such participation in the preparation of the draft declaration, which recognized the fact that participation should not be confined to NGOs.

35. Indigenous peoples could make an important contribution to United Nations activities, specifically in the field of human rights, and States seeking to limit their participation were clearly indicating that they wanted to exclude such contributions in the very declarations dealing with their situation. Indigenous peoples, unlike many NGOs, did not participate in United Nations activities as lobbyists with special interests but as representatives of indigenous governments, nations, communities and tribes

with collective and individual rights for which they were seeking to obtain full recognition and respect. Existing United Nations rules and procedures must be revised to enable genuine and lasting relationships to be established between indigenous peoples and States.

36. Her organization urged members of the Commission to support the proposed study on indigenous land rights, which were of fundamental importance to indigenous peoples. The study could initiate the process of education needed for informed United Nations action and could recommend practical measures for the peaceful resolution of land and resources disputes. The funds required for the study would not be substantial and would be reduced by the fact that indigenous peoples were eager to provide the essential information required.

37. Mr. RAVENNA (Permanent Assembly for Human Rights) said that his organization was in favour of the establishment of a permanent forum for indigenous peoples, but the term "indigenous" carried implications that must be clearly understood. Traditionally it had been defined by biological, linguistic and cultural criteria. In his organization's view, the concept of "Indian", commonly applied to the indigenous peoples of the Americas, was a supra-ethnic category referring not to characteristics of the groups it designated but to their particular relation with the societies of which they formed part. The concept had come into being with the discovery of America in 1492. Prior to that date there had existed a rich diversity of cultures, whereas after it the indigenous inhabitant or Indian had been perceived only in terms of the colonial situation, a hierarchical order with the white man at the top. In the case of Argentina, the indigenous problem was viewed as a purely demographic matter, whereas indigenous claims were much wider in scope, relating to the defence and recovery of lands, recognition of ethnic and cultural specificity, equality of rights, and rejection of repression, violence and commercialization of their culture.

38. He wished to bring to the attention of the Commission two violations of indigenous rights in Argentina. The Pulmari Corporation was a legally constituted body whose purpose was to administer extensive lands rich in gold, silver and other metals in the province of Neuquén and thereby assist the development of the indigenous peoples of the area. The decision by the Government to compel the Corporation to hand over some 140,000 hectares for private exploitation had given rise to a confrontation with the indigenous communities, and, under government pressure, the Corporation had obtained a court order to expel the indigenous people from their lands. In his organization's view, the Corporation should respect the relevant provisions of the Constitution and withdraw its charges against indigenous people who had acted in defence of their land, and a rigorous investigation should be carried out by the Argentine authorities into the irregularities committed by the directors of the Corporation.

39. Another alleged violation of human rights concerned a team from the University of Buenos Aires and the National Council for Scientific and Technical Research which had been taking blood samples from the indigenous communities for research purposes. The province of Neuquén had refused permission for this research to be carried out in its territory but, unknown to the local people, another study authorized by the Government was also being

carried out in the same area, and it was alleged that the first team had taken advantage of the confusion arising from this fact to take unauthorized blood samples.

40. Mr. Suhas CHAKMA (Asian Cultural Forum on Development) said that although some Member States recognized the problems of indigenous peoples, genuine dialogue had yet to begin. Coexistence did not give the right to impose alien cultural or ethical values. It implied recognition of equality in all spheres and mutual respect, but although the mode of operation of colonial and neo-colonial forces had changed a little, oppression continued and there was no sense of moral outrage at the unspeakable wrongs committed against indigenous peoples.

41. The failure of Governments to facilitate genuine dialogue was illustrated by the pressure put by the Government of Bangladesh on the Government of Thailand not to issue visas to the Jumma and Bengali representatives wishing to participate in the International Peace Conference on the Chittagong Hill Tracts held in Bangkok in February 1997. The Conference had recommended the Government of Bangladesh and the political organization of the indigenous Jumma peoples to invite a facilitator or facilitators acceptable to both parties to help them resolve their differences, to establish a joint commission and to respect article III of the 1949 Geneva Convention. It had also recommended the Government of Bangladesh to act in accordance with its stated willingness to resettle and rehabilitate settlers outside the Chittagong Hill Tracts, and to demilitarize the Tracts progressively, to dismantle the cluster villages of the Jummas, and to provide unrestricted access to the Tracts for national and international media and observers.

42. The Commission should authorize the holding of a second workshop on the permanent forum in June 1997, approve the Sub-Commission's resolution on the study on indigenous land rights, and extend the mandate of the Independent Expert to monitor the peace process in Guatemala. His organization was also concerned about the denial of equal participation of many indigenous groups in the Working Group on the draft declaration, and about the persistent attempts of Asian Governments to dilute the rights of indigenous peoples.

43. Mr. BARKER (International League for Human Rights) explained that his statement would present the views of a number of leading Aboriginal organizations of Australia, a country whose international rhetoric on human rights starkly contrasted with its limited domestic implementation of its international obligations. Successive Australian Governments had failed to observe the rights enshrined in the international Covenants. Indigenous people had a life expectancy 17 years less than other Australians and their infant mortality was three times higher; the unemployment rate was four times higher; indigenous families comprised only 1.4 per cent of families in Australia but accounted for 22 per cent of the homeless and 38 per cent of those living in poverty; they were also imprisoned at over 18 times the rate for other Australians.

44. One of the most serious forms of human rights abuse of indigenous people in Australia had been the forced removal of children from their families, which had continued until the 1960s, but the present Government had indicated

that it would not consider any kind of compensation. It had, however, reluctantly accepted its predecessor's legislation giving minimal effect to the 1992 High Court judgement that indigenous peoples retained common-law title to their traditional lands in some circumstances. Opponents of such title had, however, launched a massive campaign to put pressure on the Government to legislate away the limited rights recognized by another High Court decision relating to land held under pastoral leases. Of particular concern was the risk that spiritual attachment to the land would be removed as a relevant consideration in determining the damage to indigenous interests caused by mineral exploitation - a principle to which the Government was committed under article 27 of the International Covenant on Civil and Political Rights. Those concerns had to be seen in the context of the necessity for a much wider political and legal reconciliation between indigenous and non-indigenous Australians.

45. With regard to the draft declaration, he said that experience in the Working Group had caused indigenous people to wonder whether Governments were truly committed to the adoption of a declaration properly reflecting their concerns and aspirations. All participating Governments must recognize: the essential link between indigenous peoples and their land and resources; that acknowledgement of collective rights was essential to the protection of indigenous cultures; and that the integrity of the draft declaration depended on acceptance of the right of indigenous peoples to self-determination.

46. Mr. POMA (World Council of Churches) said that his organization welcomed the inclusion of an agenda item on indigenous issues. In pursuance of its long-standing interest in United Nations action on behalf of indigenous peoples, it wished to make the following recommendations: that the Commission should adopt resolution 1996/38 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and endorse the appointment of Mrs. Daes as Special Rapporteur for the study of indigenous land rights and the environment; that it should adopt the draft declaration in its present form as representing minimum standards for safeguarding indigenous cultures; and that it should support the prompt establishment of a permanent forum for indigenous peoples within the United Nations.

47. His organization had been greatly saddened by the walk-out by indigenous representatives at the 1996 open-ended inter-sessional working group on the draft declaration, which appeared to be a direct result of the failure by government representatives to recognize the rights of indigenous people to participate in an open and meaningful manner. In order to ensure that indigenous participation should not continue to be restricted in other United Nations forums, an urgent review of United Nations norms and procedures for such meetings might be required.

48. Ms. YAMBERLA (International Organization for the Development of Freedom of Education) said that the Commission's decision to include an item on indigenous issues on its agenda had given fresh impetus to its work in that field; that impetus must be maintained. The time had come for the United Nations and the international community to recognize that indigenous participation in the present forum was based on their situation as historically constituted peoples and nations. During the second session of the Working Group on the draft declaration, the representatives of indigenous

peoples had made it clear that the draft gave expression to the minimum conditions essential for their survival. They therefore viewed with concern the passing of the years of the Decade, which they saw as a starting-point for recognition of their rights. Education was one of the essential pillars in the work of indigenous peoples, and the Third University of Human Rights would devote particular attention to indigenous subjects as a basis for real progress in work on the Declaration.

49. Among the many concerns of indigenous people was corruption in various countries of which they formed an important part and where violence continued to be a major scourge. It was essential for the international community to contribute through the work of the Commission to the building of peace in such countries as Mexico, Colombia and Guatemala. In the latter country, despite the efforts that had been made, much remained to be done; her organization therefore strongly urged that the mandate of the Independent Expert for Guatemala should be extended. It welcomed the establishment of a national planning and development council for indigenous peoples in Ecuador, which would ensure respect for the full autonomy of indigenous and coloured people. And it supported the resolutions adopted by the Sub-Commission on indigenous populations and the proposal for the establishment of a permanent forum, the holding of a second workshop and other arrangements for regional consultations. The draft declaration should embody and complement all rights recognized by other international instruments.

50. Mr. ARIAS (American Association of Jurists), speaking on behalf of the World Alliance of Indigenous and Tribal Peoples of the Tropical Forests, said that if indigenous peoples were to participate fully in United Nations bodies, it was essential that their status as peoples, communities and tribes should be recognized, as it was in the revised constitutions of such countries as Bolivia, Chile, Colombia and Guatemala, without reference to any association with NGOs. That would entail changes in the rules of the Commission, a fact which he hoped representatives of Governments would recognize, and the establishment of a permanent forum, which many Governments considered should be at the highest possible level within the United Nations system, thus enabling indigenous peoples to participate in the discussion of many questions from which they were at present excluded. The forum would also study such matters as the protection of the cultural heritage of indigenous peoples, their land rights, treaties and other agreements, and any problems left unresolved at the end of the Decade.

51. Mr. MIOT (International Federation of Rural Adult Catholic Movements) said that the majority of indigenous peoples belonged to rural and peasant populations, whose development was the concern of his organization. They made up the most impoverished and marginalized of Asian societies, where their struggles were often stifled by government forces. He cited as examples the deplorable situation of the Karen people in Burma, to which they were being forced to return from Thailand, and the indigenous peoples of Kerala in India. On the other hand, in the Vichada region of Colombia, where 70 per cent of the population was indigenous and rural, a level of social, cultural and economic well-being was being achieved that was a challenge to all aiming at achieving "more human" development for indigenous communities. As against the cultural disintegration suffered by the indigenous communities of the Guaranis in Brazil, indigenous populations were recovering their identity through concrete

measures undertaken by themselves. He cited examples from Guatemala, Mexico and Peru. Such achievements were promoted and supported by local, regional and continental organizations of indigenous peoples, in which the Federation participated.

52. The award of the Nobel Peace Prize to two East Timor leaders gave recognition to the struggle of indigenous people to reclaim their culture, education and traditional religions and their right to self-determination. The Federation sought to develop national and international solidarity between rural people of all continents taking into account cultural diversities and different value systems.

53. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that her organization, which was particularly concerned with the rights of indigenous peoples, had been asked to speak on behalf of the Chiapas groups in Mexico. As a result of their marginalization and exploitation by government authorities, an armed conflict had broken out in January 1994. Through that conflict they sought recognition of their rights as individuals and communities, including access to basic services such as education and health, use and possession of land, and respect for their cultural identity and autonomy.

54. Talks between the insurgent forces and the Mexican Government under national and international auspices had been marked by a lack of political will on the part of the Government to resolve the conflict, and the progress made at the negotiating table had never been translated into practice. At the last round of talks, an agreement had been signed by the Zapatista National Liberation Army representing the insurgent forces, the Concord and Pacification Commission representing the Government, and the National Mediation Commission for presentation to the Government. The proposal received and discussed by the Federal Congress had been substantially different, however, and the Zapatista Army had decided to withdraw from the negotiations.

55. During the ensuing spiral of violence, paramilitary gangs, acting under the cover of the Mexican army and security forces, had launched attacks on indigenous communities suspected of supporting the insurgents, leaving 50 killed and 20 wounded during February and March 1997. Whole communities had been uprooted, and there had been scores of arbitrary arrests and disappearances of peasants belonging to the communities. The imminence of federal and state elections had raised confrontations and repression by the army and security forces to new heights, preventing any renewal of negotiations between the insurgents and government authorities. Her organization therefore requested the Commission to concern itself with that grave problem and lend its support to international mediation between the forces in conflict.

56. Mr. DAHL (Inuit Circumpolar Conference) said that some 115,000 people lived in the high Arctic, divided from one another by four different State borders but sharing the same ancestors, culture and language. His organization strongly felt that the draft declaration should be adopted without further delay. Any attempt to dilute its terms would be unacceptable

to indigenous peoples, which stood to benefit from the standards it set. He urged the Commission to take steps to ensure direct and full participation of those peoples in the activities of the Working Group.

57. Concrete and visible progress was also urgently required towards the establishment of the permanent forum, and his organization supported the suggestion that a second workshop should be held, possibly in Chile. The forum must be given terms of reference and resources to enable it to facilitate positive dialogue between Governments and indigenous peoples, and should therefore operate at the highest level of the United Nations system. He also urged the Commission to accept the recommendation by the Sub-Commission on Prevention of Discrimination and Protection of Minorities that a study on land rights, which were of great importance to indigenous peoples, should be launched as soon as possible. In that connection, he drew the attention of members of the Commission to the violation of human rights suffered by the Inuit people of northern Greenland; they had been forcibly relocated by the Danish Government to make room for a United States military base in 1953 and had as yet received no meaningful redress.

58. Mr. Gantam CHAKMA (Human Rights Protection Forum) welcomed the Commission's decision to include an item on indigenous issues in its agenda. The Working Group on Indigenous Populations should continue to operate, but there was also a clear need for a permanent forum. He supported the resolution calling for a second workshop to be held in Chile, which should be supplemented by regional meetings in Asia and other parts of the world.

59. He wished to draw the attention of members of the Commission to the grave violation of human rights suffered by the Jummas of the Chittagong Hill Tracts, 50,000 of whom were living as refugees in India and had been denied the right of safe return to their homeland in Bangladesh. The Government of that country remained unwilling, in spite of prolonged negotiations, to accede to their minimum demands for self-determination. Even during the present ceasefire, violations of human rights against individuals had continued.

60. Mr. LITTLECHILD (International Organization of Indigenous Resource Development) welcomed the improvements that had been made in the presentation of the second report of the inter-sessional working group (E/CN.4/1997/102), but regretted its reference to the participation of organizations such as his as "observers". He urged the immediate adoption of the declaration without amendment or deletion. His organization was greatly encouraged by the statement in paragraph 332 of the report that Canada accepted a right of self-determination for indigenous peoples and urged other members of the Commission to follow that lead and proceed to early adoption of the declaration and other related international instruments.

61. The need for the establishment of a permanent forum was underlined by continuing violations of Treaty 6 rights by the Canadian Government, for example by the introduction of a bill proposing modifications to the Indian Act in spite of strong opposition by Indigenous First Nations.

62. His organization looked forward to receiving the final report of the United Nations Treaty Study, Treaty 6 being one of those selected for a special review. He urged that full support should be given to the study on

indigenous land rights and commended the work of Mrs. Daes as Special Rapporteur. Wherever possible, use should be made of indigenous experts in such work. Urgent as the establishment of a permanent forum was, it was essential that the activities of the Working Group on Indigenous Populations should be continued as well.

63. Mr. HUSSEIN (Malaysia) said that indigenous populations had long been victims of colonization, discrimination, repression and genocide, one of the most horrific examples of which had followed the discovery of the "New World". Malaysia had also suffered grievously under the yoke of colonization, but, starting in 1970, its Government had launched the "New Economic Policy", which had raised the status of its people from social, economic and political backwardness to one characterized by political stability, national unity and economic prosperity. A number of developing countries were taking that as a model for emulation. There remained a very small segment of its indigenous population that lagged behind the other communities, and his Government had taken comprehensive steps to address that situation. Some individuals and groups, misled by romantic idealism, had argued that those indigenous people should be left alone in their natural surroundings, but his Government knew only too well the consequences of such a policy of benign neglect - alcoholism, widespread suicide, and family breakdown - and recognized that the best way of helping the indigenous populations was to accelerate their integration into the global community.

The meeting rose at 9 p.m.

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Fifty-third session

SUMMARY RECORD OF THE 33rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 2 April 1997, at 10 a.m.

Chairman: Mr. SOMOL (Czech Republic)

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GE.97-11561 (E)

The meeting was called to order at 10.45 a.m.

STATEMENT BY MS. MARTA ALTOLAGUIRRE, MINISTER FOR HUMAN RIGHTS OF GUATEMALA

1. Ms. ALTOLAGUIRRE (Guatemala) said that, with the valuable help of the Peace Commission and the goodwill of the Unidad Revolucionaria Nacional Guatemalteca (URNG), the peace process had been concluded by the signing on 29 December 1996 of the Agreement on a Firm and Lasting Peace, supplementing the nine agreements previously signed. The agreements paved the way for building a multi-ethnic, multicultural and multilingual nation and implementing a policy of sustainable development for the benefit of all Guatemalans.

2. The Comprehensive Agreement on Human Rights, had ushered in a combat against impunity which had led to the dismantling of 38 gangs of kidnappers and the prosecution of 177 State agents, particularly military personnel and police officers. Enforced disappearances, extrajudicial executions and torture were characterized as serious offences in the Penal Code, and a law had been enacted on protecting persons brought before the courts and personnel administering justice. A centre for the administration of justice had been established, with the cooperation of the United Nations Mission for the Verification of Human Rights in Guatemala (MINUGUA) and the support of the Swedish Government; it served the regions that had been the hardest hit by the armed confrontation.

3. To purge the security forces and make them more professional, 219 officers had been removed from their functions for committing unlawful acts and various training programmes were being implemented with assistance from friendly countries. On the justice side, 45 judges had been removed for corruption or dereliction of duty.

4. In connection with the Agreement on the Bases for the Legalization of the Unidad Revolucionaria Nacional Guatemalteca, a number of individuals, including Myrna Mack, Jorge Carpio and Xamán, had not been allowed to take advantage of the Reconciliation Act, because the offences with which they were charged were ordinary crimes not directly related to the armed confrontation.

5. Under the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, the volunteer civil defence patrols had been dismantled. She noted in that connection that, on the one hand, the State had begun compensating the members of the community of Colotenango, which had been victimized by the above-mentioned patrols and, on the other hand, that a law on compensation of the victims of the armed confrontation would be adopted shortly. Members of the armed forces accused of ordinary offences would henceforth be tried by the civil courts.

6. Under the Agreement on Identity and Rights of Indigenous Peoples, several joint commissions had been established to coordinate, in cooperation with the Secretariat for Peace, the administrative, legislative and judicial measures provided for under the peace agreements. On 19 March 1997, the National Council of Elders (Mayas) had been established in order to facilitate the participation of ethnic groups in areas such as training, production, marketing, culture, education, environment and handicrafts.

7. Since November 1994, MINUGUA had also been helping to consolidate the national institutions. The Commission to clarify past violations and acts of violence that had caused the Guatemalan population to suffer should shortly begin work.

8. Despite the serious problems of extreme poverty, urban insecurity and organized crime, which fed on the weakness of the institutions, her Government, with the help of the international community, would endeavour to strengthen peace and introduce a multi-ethnic, multilingual and multicultural State under the rule of law, in accordance with the peace agreements which had brought 36 years of armed confrontation to an end.

STATEMENT BY MR. EPHREM SETH DORKENOO, MINISTER OF JUSTICE AND HUMAN RIGHTS OF TOGO

9. Mr. DORKENOO said that his Government was convinced that no development was possible if human rights and fundamental freedoms were flouted. It therefore focused its efforts on gradually building up a democratic State. Each Togolese was invited to make a personal contribution to that end.

10. At the international level, the hopes raised by the political upheavals at the beginning of the current decade, such as the fall of the Berlin Wall, the introduction of political and trade-union pluralism in the developing countries and the end of apartheid, had been somewhat disappointing. The growing number of refugees, displaced persons and excluded persons, pockets of tension and re-emergence of terrorism and organized crime showed how seriously human rights were endangered. His Government wished to pay tribute to the Commission on Human Rights and the High Commissioner for Human Rights for their efforts to redress those problems.

11. His Government, aware that ignorance of human rights was often the cause of social and humanitarian crises, was attempting to establish a policy of education in the field of human rights. The Ministry of Justice and Human Rights, the National Human Rights Commission and other institutions, together with non-governmental organizations (NGOs), were working towards raising the people's awareness of the fundamental values of freedom and democracy through seminars, information campaigns and programmes, especially on the rights of children and women, the fundamental rights and freedoms, particularly trade-union freedoms, and freedom of the press.

12. In the same spirit, on 22 March 1996, his Government had signed an agreement with the Centre for Human Rights on the implementation of a three-year cooperation programme under which three training seminars had already been organized, on the drafting and submission of national reports, on international standards for the administration of justice and on the role of the armed forces in the promotion and protection of human rights. In addition, a human rights documentation centre was in the process of being established. His Government took the opportunity to express its gratitude to the Centre.

13. Building a democratic State required the establishment of a sound judicial system capable of rendering justice fairly. His Government's efforts in that area had led to the adoption of a set of instruments establishing a

constitutional court, setting forth regulations for the functioning of the Supreme Court and the organization and functioning of the Supreme Judicial Council and defining the status of judges. Organizational acts governing the organization and functioning of the Supreme Audiovisual and Communications Authority of the National Human Rights Commission had also been adopted and promulgated by the Head of State. Establishing all those institutions required considerable material, logistic and human investment, and his Government hoped that the cooperation it had begun with the Centre for Human Rights could be extended to those new areas. In that connection, an assistance programme for the prisons administration was being negotiated as part of bilateral cooperation, and further assistance would be necessary.

14. Although there was no doubt that civil and political, economic, social and cultural rights, democracy and development were interdependent, it was no less true that the effective enjoyment of all human rights was dependent on the level of economic development and the achievement of social progress. The Togolese authorities were consequently working to improve the country's economic situation in order to provide the people with harmonious and sustainable development. Regrettably, the economic environment was unfavourable and, like other developing countries, Togo was faced with the cut-throat competition made necessary by the challenges of international trade; it needed the international community's solidarity to obtain the means required for its new institutions to function effectively.

15. Fratricidal struggles and the human rights violations that went with them often arose from intolerance and lack of understanding, as attested by the tragedy that was taking place in the Great Lakes region. The Togolese Head of State, faithful to his policy of openness and dialogue, had called for an immediate ceasefire in the region, but had also taken the initiative for holding the first Special Summit of the Central Body of the Mechanism for Conflict Prevention, Management and Settlement of the Organization of African Unity (OAU), held at Lomé on 26 and 27 March, with the participation of the Secretary-General of the United Nations.

16. There was no doubt that achieving the implementation of human rights was a long-term project requiring a daily and sustained effort; Togo would take every opportunity at both the national and international levels to strengthen democracy and the rule of law.

STATEMENT BY MR. LJUBOMIR DANAILOV FRCKOSKI, MINISTER FOR FOREIGN AFFAIRS OF THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

17. Mr. FRCKOSKI (The Former Yugoslav Republic of Macedonia) said that he would like first of all to express his appreciation to the former High Commissioner for Human Rights for his efforts to improve the United Nations human rights programme, in the framework of the restructuring of the Centre for Human Rights, and for the efficiency with which the technical cooperation between the Macedonian Government and the Centre had been conducted.

18. It was indisputable that much progress had been made since the adoption of the Universal Declaration of Human Rights, but there were still numerous examples of human rights violation and of an insufficient and occasionally delayed reaction by the United Nations. In that context, he welcomed the

statement of the Secretary-General who, at the opening of the current session, had promised to be a champion of human rights and ensure that human rights were fully integrated into the action of the Organization in all other domains.

19. The fiftieth anniversary of the Universal Declaration was an opportunity to take stock of what had been achieved and identify the targets still to be attained. Everyone knew that the maintenance of peace and stability was indispensable to respect for human rights. Preventive action, in particular through education, counselling and economic and other assistance, was thus of pivotal importance. The area of human rights presented the real challenge to preventive diplomacy, which should make unnecessary all future tribunals for war criminals. In that connection, the efficient work of the existing international tribunals for war criminals deserved everyone's support.

20. In half a century, an impressive infrastructure of standards covering almost all categories of human rights and freedoms had been created. Any further proliferation of human rights instruments was futile unless the existing ones were genuinely implemented. However, although the primary responsibility for doing so was vested in Governments, it must always be borne in mind that respect for human rights was a legitimate concern of the international community. What was significant was the adoption of standards to reinforce the existing ones and, in that context, his Government supported the elaboration of optional protocols designed to improve the promotion of the rights of children and women. In the same vein, it agreed with the members of the Commission who had stated that adopting a large number of resolutions was not the real answer to existing problems. It was high time to specify which issues should be discussed every year and which should be discussed biennially or triennially.

21. The issue of the correlation between economic, social and cultural rights on the one hand and civil and political rights on the other remained open. It was a fact that democracy and the rule of law were the best prerequisites for economic and social progress, as it was true that the improvement of economic and social status had a positive influence on the development of political rights. In that respect, the adoption by consensus of the resolution on the right to development at the Commission's fifty-second session had been a major achievement.

22. The role of the NGOs and human rights defenders was particularly important. Their courage must be supported, and he hoped that the current session would be marked by the adoption of an instrument to protect their safety.

23. As the representative of a European country, he felt it necessary to point out the significance of closer cooperation between the United Nations and regional organizations such as the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE). In view of the unfavourable financial situation of the United Nations, cooperation with those organizations could be a useful way of avoiding overlapping of activities.

At the Commission's preceding session, his delegation had proposed that the United Nations, OSCE and the Council of Europe should prepare a comparative study on the position of national minorities in the Balkans, an idea which had received the support of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, Mrs. Rehn.

24. On a universal plane, more concrete United Nations action was needed in the area of minority rights, as attested by the recent emergence of numerous ethnic tensions. Everything seemed to indicate that ethnic and cultural diversity and religious beliefs, rather than serving peace and progress, were becoming generators of conflicts. In such circumstances, the United Nations could not restrict itself to abstract discussions, which was unfortunately becoming the practice of the newly-formed Working Group on Minorities. He hoped therefore that the Commission would consider appointing a thematic rapporteur to study questions relating to ethnic, religious and linguistic minorities.

25. He stressed the importance of international follow-up in general, both for specific human rights categories and for the country procedure, and of the work of the Commission's Special Rapporteur, Mrs. Rehn, in particular. The view of the Special Rapporteur was that the human rights situation in the Republic of Macedonia was considerably better than the situations in other countries in the region and she had consequently recommended that his country should soon be exempted from her mandate. Cooperation with international experts had confirmed the appropriateness of the Government's policy, which was to make respect for human rights a constant priority of democratic institutions and practice in the State, despite an extremely difficult situation. That policy had also made it possible to rationalize minorities' demands and wishes and place them in the context of European and international standards. The Republic of Macedonia therefore hoped to continue to cooperate with the monitoring mechanisms of the international organizations of which it was a member, based on the principles of equality of States and respect for their specific features. It was a party to all the fundamental United Nations human rights conventions. At the regional level, it had ratified the European Convention on Human Rights and the Framework-Convention for the Protection of National Minorities, as well as the relevant OSCE instruments.

26. At the national level, his Government, aware of the need for respecting diversity as a fundamental factor of the internal stability of States, had been paying special attention to the protection and promotion of the rights of persons belonging to national minorities. The clear and comprehensive legal framework for protecting minority rights fully corresponded to the minimum international standards in the field and even went beyond them in some areas. The Government had also been implementing an affirmative action policy to strengthen the integration into society of persons belonging to national minorities, while maintaining their ethnic and cultural features. Positive results had been achieved in the spheres of education, State administration, culture and the media.

27. There was a long tradition in The Former Yugoslav Republic of Macedonia of mutual tolerance and understanding among the various cultural communities. But such a tradition must be strengthened continually, in civil society, by developing not only harmonious inter-ethnic relations but respect for each

person's individuality. Otherwise, the feeling of ethnic affiliation ran the risk of intensifying, becoming politicized and resulting in intolerance, as attested by the tragic history of the Balkans. In that connection, the Macedonian Parliament had adopted the Declaration on the Promotion of Inter-Ethnic Relations in the Spirit of Tolerance, Dialogue, Mutual Respect and Confidence, reaffirming the Republic's commitment to integrating all its citizens, independently of their ethnic affiliation. Respect for those fundamental principles, which had made it possible to keep ethnic extremism on the margin of society, appeared to be the only way to resolve the minority question in the Balkans as a whole and should become a reality throughout the world.

STATEMENT BY MR. VALDIS BIRKAVS, MINISTER FOR FOREIGN AFFAIRS OF LATVIA

28. Mr. BIRKAVS (Latvia) reiterated the assurances of his country's support for reform initiatives in the Centre for Human Rights, which had played a pivotal role in setting standards for the system of protection of human rights in Latvia. His Government was fully determined to apply all the human rights standards in force.

29. In the wake of the Vienna Conference, Latvia had drawn up a national programme for the protection and promotion of human rights, the cornerstone of which was the National Human Rights Office. The Office, which had begun operating in 1995, had recently become a fully fledged member of the International Institute of Ombudsmen, where it was the only representative of the Baltic States. Unlike other institutions of the type, the Office did not simply consider complaints from individuals against the authorities. It was responsible for improving the general human rights situation and conducting public education and information activities as well. Its views had become an important factor in the formulation of national human rights policies and the development of national legislation. The United Nations Development Programme (UNDP) and the United Nations Centre for Human Rights had recently completed a "Project Impact Statement" regarding the effect of the multi-donor international assistance project "Capacity-building of the National Human Rights Office". The Statement stressed the success of that effort at international cooperation in the field of human rights. The Office's independence, which was part of a broader status encompassing legislative, judicial and administrative reform, was set forth in a law adopted in December 1996. With the establishment of the Constitutional Court of Latvia, which had held its first session in December 1996, the system of domestic remedies was in place and functioning.

30. At the same time, Latvia was acting on its international commitments. The European Convention on Human Rights, which it had signed on joining the Council of Europe, had been submitted to Parliament for ratification without reservations. Aware of the importance of regional cooperation, Latvia participated actively in the Council of Baltic Sea States, and would be holding the chairmanship of its Working Group for Assistance to Democratic Institutions until 1998. It also participated in regional consultations on national human rights institutions, which were examples of successful cooperation between the United Nations, the Council of Europe, OSCE and the

Council of Baltic Sea States. The Centre for Human Rights should continue to widen and deepen cooperation with regional organizations in order to improve the information flow and avoid duplication of efforts.

31. On the eve of the fiftieth anniversary of the Universal Declaration of Human Rights, it was natural to look back to the beginnings to find renewed vigour and direction for the future. If the letter and spirit of the Charter of the United Nations were to be respected, however, United Nations human rights institutions and mechanisms must under no circumstances be allowed to be exploited as an arena of political point-scoring, which would undermine their credibility and, hence their effectiveness. In recent years, new human rights challenges had appeared, which the Commission should evaluate to determine whether action needed to be taken. Latvia was prepared to make its contribution to resolving those challenges.

INDIGENOUS ISSUES (agenda item 24) (continued) (E/CN.4/1997/100, 101 and 102; E/CN.4/1997/NGO/35; E/CN.4/Sub.2/1996/21)

32. Mrs. PENNA (Brazil) said that she wished to refer to the domestic situation of indigenous people in her country. Indigenous peoples' rights to ethno-development and the preservation of their cultural identity were based on a series of legal guarantees and constitutional rights, such as the right to possess land, the right to dignified living conditions, the right to participate in the political life of the country and the right to nationality. Those were precisely the goals of her Government's policy for indigenous people.

33. The land question was essential. Indigenous lands represented 11.13 per cent of the national territory, or the equivalent of France and England together. Of 554 indigenous areas recognized by the National Indian Foundation (FUNAI), 223 had been defined and registered, 52 were in the process of demarcation and 136 had been identified or were in the process of being identified. The demarcation process had made important progress in 1995 and 1996. As the administrative procedure had been challenged before the Supreme Court, the Government had issued Decree No. 1775/96 to provide the demarcation process with more transparency and legal guarantees, in order to avoid having the process stopped.

34. Land demarcation alone, however, was not sufficient. It was necessary to take steps to protect the groups concerned against farmers, miners and adventurers lured by those lands, most of which were located in areas of difficult access near the borders. FUNAI spent about 30 per cent of its budget on removing intruders from the indigenous areas.

35. Another priority area for Government action was the development of health and education. The Government radio broadcasting system had created special radio programmes for the indigenous groups. The Ministry of Agriculture and FUNAI had developed a programme to support productive and farming activities by indigenous people. Environmental protection was also a concern, and the Government was intensifying measures to prevent the illegal and predatory exploitation of natural resources in the regions where indigenous people lived. The Government was also promoting self-sufficiency and community development within indigenous groups.

36. Despite the progress made, there were still many problems to be solved. As most of the indigenous communities lived in the Amazon region, it was indispensable to draw up economic development projects for the region which were compatible with the preservation of the environment and the protection of indigenous territory, where some 300,000 prospectors and miners continued to endanger the indigenous communities' survival.

37. Her Government welcomed the multilateral debate on the rights, well-being and sustainable development of indigenous people, which had led to conceptual and practical advancement on the issues. Further efforts were needed to clarify important areas and ensure that the international community adopted standards dealing with the specific situation of indigenous people, in a manner consistent with basic human rights instruments and the principles of the Charter.

38. Her delegation welcomed the report of the Working Group on the draft declaration on the rights of indigenous people on its second session (E/CN.4/1997/102). Divergent views persisted, and Governments and indigenous representatives would have to continue their constructive dialogue to enable the Working Group to reach an agreement on the draft declaration. The Working Group's mission was to find a common platform on which all the nations of the world could rely to promote the recognition and enjoyment of indigenous rights, based on the diversity of their situations throughout the world.

39. She noted the comments in paragraph 7 of the report of the Secretary-General on the establishment of a permanent forum for indigenous people (E/CN.4/1997/100), concerning the growing interest in indigenous issues among the different organizations and departments of the United Nations system and the existence of a number of indigenous-related programmes and projects being implemented and planned by United Nations agencies. Her delegation welcomed the holding in Chile of a second workshop on the possible establishment of a permanent forum for indigenous people.

40. Brazil was willing to give favourable consideration to proposals for improving the participation of indigenous people in the work of the United Nations. Existing arrangements, however, particularly within the Commission and its subsidiary bodies, had already provided for broader participation. In any solution envisaged, Governments should maintain their prime responsibility for ensuring the framework for the promotion of initiatives set for the International Decade. In that regard, her delegation felt strongly that contacts between the United Nations and national indigenous groups should continue to be channelled through Governments.

41. Mr. LORD (Canada) said that the consultations and preparations for the current session of the Commission had reinforced his delegation's conviction of the advisability of adding a separate item on indigenous issues to the Commission's agenda.

42. The Commission unquestionably had a central role to play in realizing the programme of activities for the International Decade of the World's Indigenous People. One of the major activities - and a priority for Canada - was the adoption of a declaration on the rights of indigenous people. In 1995, his delegation had strongly supported the establishment of an open-ended

inter-sessional working group to conduct negotiations on that issue. The second session of the Working Group had marked a positive step towards the adoption of a strong and effective declaration. In that connection, he stressed the particularly valuable work of the Chairman of the Working Group, who had indicated his willingness to meet informally with organizations of indigenous peoples at the current session. It could not be overemphasized that the participation of organizations of indigenous peoples was critical to the success of the joint efforts to elaborate a declaration.

43. In order to advance the work, his delegation would be introducing a resolution authorizing the open-ended inter-sessional Working Group to meet for a period of 10 working days prior to the Commission's fifty-fourth session. As well, in the framework of its preparations for the following session of the Working Group, his Government had entered into an intensive process of meetings with the aboriginal peoples of Canada.

44. As it had done for many years, his delegation would support the continuation of the mandate of the Working Group on Indigenous Populations, which played an important role in reviewing developments affecting indigenous peoples and addressing specific issues of concern to them. It reiterated its encouragement to the Working Group to explore innovative and direct measures for enhancing the contribution of indigenous peoples to the Group's work.

45. His delegation would be sponsoring a draft resolution calling for a second workshop on a possible permanent forum for indigenous peoples in the United Nations, as well as the draft resolution on the International Decade of the World's Indigenous People. In that regard and in connection with the establishment of a permanent forum, it was important to note three recent documents which provided a comprehensive picture of the many positive activities, as well as deficiencies, in the ways in which indigenous issues had been addressed within the United Nations system. They were the report of the Secretary-General reviewing existing mechanisms, procedures and programmes within the United Nations concerning indigenous peoples (A/51/493), the report of the Secretary-General on implementation of the programme of activities for the Decade (A/51/499) and the report of the High Commissioner for Human Rights and the Coordinator of the Decade to the Commission (E/CN.4/1997/101).

46. Lastly, he drew the attention of the members of the Commission to a series of national activities conducted in the framework of the Decade: the National Aboriginal Achievement Awards; National Aboriginal Day on 21 June, during which local events had been held in aboriginal communities and government offices throughout the country; the Canada-Mexico Aboriginal Economic Round Table, which had made it possible to identify the steps needed to implement partnerships, and a project on the development of a plain-language version of the Declaration and a pamphlet in Inuktitut Oji-Cree, French and English.

47. Mrs. REGAZZOLI (Argentina) said that only international cooperation, the elaboration of fundamental standards and sincere political will would make it possible to find real solutions for the specific problems of indigenous people. Argentina had made significant changes in its legislation to that end and had explicitly recognized the rights of indigenous people as part of a 1994 reform of the Constitution. Indigenous people in Argentina represented

approximately 1.5 per cent of the population and were divided into 16 ethnic groups living in 12 provinces. The amendments to the Constitution were not only important in themselves but also interesting in that all the concerned sectors had actively participated in preparing them. The constitutional reform explicitly recognized the fact that indigenous people had existed before the national State and the provincial states had been formed.

48. In October 1996, the Head of State had launched a national plan for cooperation with the indigenous communities, under which the legal personality of those communities had been recognized, as well as the inalienable right of indigenous people to the lands on which they lived. In that context, the National Institute for Indigenous Affairs was actively working on the transfer of lands to the communities that had been living on them since time immemorial. A programme of bilingual and intercultural education, promotion of fellowships for indigenous people, and restoration, development and preservation of each community's traditions and customs had been implemented. Assistance had been provided by Spain and the European Union. Lastly, a primary health-care programme for indigenous communities had been set up to extend and improve primary health-care strategies, enhance the indigenous communities' medicinal knowledge and practices and provide their members with auxiliary health training.

49. A Guaraní grammar had been published and distributed to schools and libraries in Paraguay, Bolivia, Brazil, Uruguay and Argentina. Its purpose was officially to recognize, disseminate and preserve Guaraní, the traditional language that was part of the cultural heritage of the people of the region.

50. If the rights of indigenous populations were threatened, legal channels were clearly the best way of obtaining protection and respect for those rights. The complaint lodged with the Argentine system of justice and mentioned by the representative of the Permanent Assembly for Human Rights was the best example of the protection which democratic institutions in the Republic of Argentina offered all its citizens.

51. Mr. ROSALES DIAZ (Nicaragua) said that his country, more than 10 per cent of whose population was made up of ethnic minorities, commended the activities of the United Nations bodies and agencies, particularly UNESCO, on behalf of indigenous people. He thanked the Government of Chile for agreeing to host the second United Nations workshop on the possible establishment of a permanent forum for indigenous people. His Government, which had ratified the Convention establishing the Development Fund for the Indigenous People of Latin America and the Caribbean, would like to see that type of cooperation strengthened.

52. The International Decade for the World's Indigenous People, proclaimed in 1994, was a real challenge to Latin America, where indigenous people represented more than 26 million people belonging to 400 different ethnic groups. On the eve of the twenty-first century, it was time to involve those population groups in decision-making, in particular for the elaboration, implementation and monitoring of the major objectives set forth in the Programme of Action for the Decade. His delegation once again welcomed the fact that the Programme of Action provided for the member States to recognize the existence, identity and rights of indigenous people, in the framework of

constitutional reforms and legislation aimed at improving their legal status and guaranteeing their territorial, economic, social, cultural, political and civil rights.

53. For its part, his Government had recognized the multi-ethnic nature of its population by establishing in the national Constitution an autonomous status for the regions of the country's Atlantic Coast. The July 1995 constitutional reform had led to recognition of the existence of indigenous people, who enjoyed the rights, duties and guarantees set forth in the Constitution, especially with regard to the preservation and development of their identity, their culture and their particular forms of social organization and local administration. The rights of indigenous people over community lands were also recognized.

54. His delegation believed that the draft United Nations declaration on the rights of indigenous people must contain certain essential aspects, such as the right to use of the land and natural resources, the right to economic development consistent with the interests and traditions of indigenous cultures, recognition and respect for traditional authorities, recognition of the various languages and the right to bilingual education when necessary. It was also indispensable to recognize the historic rights of indigenous people in order to guarantee their participation in decision-making at the national level. It was satisfying to note that the report of the Working Group established to prepare the draft declaration (E/CN.4/1997/102) indicated that other States and numerous indigenous organizations agreed with Nicaragua on the need for a balance between indigenous people's right to self-determination and the concept of the unity and territorial integrity of States. In keeping with its own experience, Nicaragua was convinced that it was possible to reconcile those two objectives as long as true political will existed and the specificities of each case were taken into account.

55. More than half a century after the establishment of the United Nations and on the eve of the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights, it was regrettable that no declaration on the rights of indigenous people had yet been adopted. His delegation urged the Working Group to expedite its work in order that the declaration might be adopted rapidly, with the full participation of indigenous representatives.

56. Mr. ROMERO REYES (Mexico) said that, in the context of the International Decade of the World's Indigenous People, the international community must make a firm commitment to promote and respect the legitimate rights and aspirations of indigenous people and work to eliminate obstacles such as extreme poverty and marginalization, which prevented them from becoming a reality. His Government endorsed the definition in article 1 of International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, which was the only international instrument in force that took account of developments in international law and the recent situation of indigenous and tribal people in all the regions of the world. He appealed to all States that had not yet done so to ratify that Convention.

57. Mexico attached the greatest importance to the demands of indigenous people, so much so that it had taken the historic decision to embody them in its Constitution. Article 4 of the Mexican Constitution recognized the

country's multicultural make-up and stipulated that the law should protect and foster the development of the languages, cultures, customs, resources and forms of social organization of indigenous people and guarantee their members effective access to the system of justice of the State. Meeting the historic aspirations of indigenous people with regard to justice, land ownership and other political and social rights was one of the priorities of the national development plan for the period 1995-2000.

58. In the area of the administration of justice, the National Human Rights Commission had conducted a series of studies that had been used in 1991 to amend various provisions of the Federal Code of Criminal Procedure and the Code of Criminal Procedure for the Federal District, providing in particular that indigenous people who did not speak Spanish must be assisted by an interpreter at all stages of the criminal procedure and that judges must take all elements into consideration when investigating and evaluating the personality and situation of offenders belonging to ethnic groups. The need had been emphasized to further the analysis of the constitutional bases of the indigenous communities and of their legal customs, to ensure compatibility between their traditional standards and institutions and the federal and local legal system, to seek a solution ensuring respect for the autonomy of indigenous people, municipalities and regions and to establish a new legal framework to meet the legitimate aspirations of those groups.

59. Since the outbreak of the conflict in the State of Chiapas on 1 January 1995, his Government had always stated that political negotiation was the only solution. To that end, the Congress of the Union had adopted on 11 March 1995, the Act relating to Dialogue, Reconciliation and Peace in Dignity in Chiapas. The process of dialogue that had emerged from the conflict was innovative, because the parties pledged themselves to seek a peaceful solution, authentic, because the participants expressed their demands unreservedly, with freedom and respect, fruitful, because it had made it possible to establish a new relationship between the State and the indigenous communities and, finally, credible, because the rebel group had announced its intention of becoming a legal political formation. His Government considered the current break-off in dialogue to be temporary and was prepared to resume negotiations.

60. On the occasion of the International Year of the World's Indigenous People, the international community should work for the early adoption of specific initiatives such as the establishment of a permanent forum for indigenous people in the United Nations and the elaboration of a draft United Nations declaration on the rights of indigenous people as well as the activities suggested in the report of the Secretary-General (A/51/499), which his delegation fully endorsed. Regarding the establishment of a permanent forum, which would enable indigenous people to express their concerns and proposals for United Nations activities, his Government had taken note of the progress achieved at the first workshop and welcomed the Chilean Government's decision to host a second one. It had also taken note of the concern expressed by the indigenous representatives in the Working Group responsible for preparing the draft declaration and urged participants to seek agreements that would take account of those groups' hopes and needs. The Working Group should speed up its work with a view to completing its mandate before the end of the current decade.

61. Ms. SPALDING (International Association of Educators for World Peace) said that, in joint statements with indigenous people, her organization had for years been emphasizing the need for the United Nations system to give as much weight to natural sacred spaces as it did to man-made sacred places, such as monasteries, temples and mosques. The land on which many indigenous people had been living for generations was often not only a political territorial claim but was deeply connected to the practice of their sacred ways. Some Governments had recognized the sacred relationship to the land. The United States Indian Religious Freedom Act, passed in 1978, in which geographically-based religion was recognized, had set an excellent precedent. Efforts to enforce it had not yet been successful, however, as attested by certain legal proceedings currently in progress.

62. On 31 March 1997, the United States federal courts had decided to evict the traditional Dine people from its sacred lands on the Big Mountain and settle them elsewhere. The legal counsel for the traditional Dines had recently confirmed the fact that the territory was sacred to both Dine and Hopi, and that the two groups were determined to find a mutually respectful way to protect the land. It had recently become apparent that mining interests were behind the resettlement process. Together, the traditional Dine and Hopi elders were determined to halt the desecration of their sacred lands by the mining project. The legal counsel for the two groups reported that, curiously, when non-Indians were involved in relocation issues, they had not been encouraged to move and monetary settlements had been found for the injured parties. The fact that such harsh and forcible relocation orders appeared about to be implemented concerning Indians raised the question whether that unequal treatment was not just financially motivated but racially motivated as well.

63. The 1989 decision by the federal court in Indianapolis to restore sacred objects to a religious group had set a precedent that should be used to help the Dine people. The Permanent Representative of the United States of America to the United Nations, Mr. William Richardson, was from the Big Mountain area, and his editorials in the Los Angeles Times indicated that he was sensitive to the rights of American Indians. Her organization therefore had good reason to hope that he would apply his goodwill to the Big Mountain situation in two ways: to encourage the federal courts to allow time for the traditional Dine and Hopi elders to work out a mutually respectful solution, and to ask the Secretary-General to instruct the appropriate Special Rapporteur to visit Big Mountain post-haste.

64. Mr. BAER (Saami Council) said that establishing a separate item of the Commission's agenda for indigenous issues enabled indigenous representatives to have a direct dialogue with the members of the Commission.

65. In its resolution 51/78, the General Assembly asked the Commission to consider the convening of a second workshop on the possible establishment of a permanent forum for indigenous people in the United Nations. His organization welcomed the proposal of the Government of Chile to host the workshop and fully endorsed the observations made by the representative of Denmark, on behalf of the Nordic countries and the Home Rule Government of Greenland.

66. The adoption of a United Nations declaration on the rights of indigenous people was of crucial importance to indigenous communities. Because of the United Nations rules, however, the representatives of indigenous people, communities and organizations could not participate fully in preparing the declaration. General Assembly resolution 51/78, which should improve the situation, was thus welcome.

67. As land and natural resources were of crucial importance to indigenous people throughout the world, it was essential that the Commission should authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint a special rapporteur to conduct a study on the land rights of indigenous people.

68. Following extensive discussions, representatives and some delegations had reached the conclusion that the best way to make sure that the international standards in force concerning indigenous people were implemented would be to appoint a special rapporteur to report to the Commission on the steps taken by States to resolve the problems encountered by indigenous communities, on action to facilitate dialogue between indigenous people and Governments and on the achievement of the objectives of the International Decade of the World's Indigenous People.

69. He drew attention to the positive developments in the peace process in Guatemala. Although the indigenous point of view had not been fully taken into account in the Peace Agreement signed in December 1996, that oversight would certainly be corrected by the follow-up measures. In that connection, he paid a tribute to the independent expert, Mrs. Monica Pinto, for her excellent work for the United Nations programme of technical cooperation in Guatemala. As the peace process was still very fragile, he urged the Commission to extend Mrs. Pinto's mandate.

70. Mr. MADAHBEE (Saami Council) said that the First Nations Assembly favoured the early adoption of the draft United Nations declaration on the rights of indigenous peoples, which was a minimal standard. With regard to the Organization of American States (OAS) draft declaration on indigenous people, the Assembly endorsed the recommendations of the Indian Law Resource Centre regarding the need to hold regional workshops for broad and extensive consultations with indigenous people and organizations.

71. The establishment of a permanent forum for indigenous people required full cooperation by States as well as indigenous people and organizations. The Assembly intended to make some constructive proposals in that connection at the workshop to be held in Chile.

72. Land and resources were of crucial importance for indigenous people. In the absence of an appropriate territorial base, self-determination would be an empty word. For that reason, the Assembly favoured the adoption of a resolution recommending that a study should be conducted on the land rights of indigenous people.

73. In order to improve the deplorable economic conditions of the First Nations in Canada, they must be helped to recover the lands to which they were entitled. The Government's recent attempt unilaterally to impose measures for

redefining and restricting the conventional rights of indigenous people without their consent raised serious concerns. The Royal Commission on Indigenous Peoples had just published its five-year report, in which it recommended a complete change of direction and the resumption of relations between the indigenous people and the federal authorities on new bases. The Government had so far chosen to ignore those recommendations. In addition, the distribution of powers between the federal and provincial authorities perpetuated a situation in which the interests of the provinces prevailed over the rights of indigenous people. The federal Government, whose responsibility it was to protect those rights, was doing nothing to redress that situation.

74. Mrs. NASIR (Pax Christi International) said that she appreciated the fact that a growing number of indigenous organizations had been given permission to participate in the Working Group preparing a draft United Nations declaration on the rights of indigenous people. Unfortunately, however, during the Working Group's second session in October 1996, the indigenous representatives had not been included in the decision-making process concerning the organization of work and the establishment of the agenda. If the declaration was to have any real value, the full participation of indigenous people was crucial.

75. Although she understood that discussion on certain issues regarding the draft declaration was still necessary from the legal point of view, the declaration should not be redrafted from scratch.

76. Important as it was, the future declaration would not be sufficient to improve the situation of indigenous people. She thus urged the United Nations to establish a permanent forum for indigenous people at such a level that the discussion would not be limited to human rights but would encompass all other aspects relevant to indigenous people such as economic, social, cultural and political issues.

77. Her organization was concerned that the latest round of negotiations between the Government of Bangladesh and the Jana Samhati Samiti (JSS) had not resulted in any progress towards a solution to the conflict in the Chittagong Hill Tracts. It was essential that the United Nations and the international community should closely monitor the efforts of both sides to reach agreement.

78. In Australia, her organization had been increasingly concerned at the withdrawal by the new Government from human rights commitments made to the Aboriginal people in the past.

79. In December 1996, the two Mapuche communities of Argentina, Norquino-Puel-Salazar and Ruka Choroy, had been forcibly evicted from their ancestral lands. Under Argentine law, that was illegal, since title to the land was officially held by the local Mapuche communities.

80. She also wished to refer to the urgent situation of the Navajo and Hopi families in northern Arizona who were currently facing forced relocation. She was concerned at reports that a 31 March 1997 deadline had been set for the Navajo traditional elders to sign the agreement evicting them from their homelands. It had been hoped that the court-ordered mediation in which the Hopi and the Navajo had participated would lead to a peaceful settlement of

the situation, but those efforts appeared to have reached a deadlock. Furthermore, the Hopi Tribal Council had voted on 10 March 1997 against an extension of the dealine. Since traditional elders of both the Navajo and the Hopi had expressed the wish to continue the dialogue in order to resolve the situation, her organization urged the Government of the United States not to enforce the 31 March deadline, but to promote further negotiations between the Navajo and the Hopi, which was the only way to reach a peaceful settlement respecting the rights and dignity of the families directly involved.

81. In West Papua, the Indonesian authorities were continuing their intimidation and repression of Papuans. Evictions of indigenous people from their villages to make way for an expansion of mining concessions continued to provoke clashes. In Burma, the forced relocation of tens of thousands of Mon and Karenni villagers was particularly distressing. The deported people were made to do forced labour in intolerable conditions.

82. Lastly, her organization welcomed the fact that Papua New Guinea had abandoned the use of mercenaries in Bougainville. She urged the Commission to request the Secretary-General to resume his good offices to facilitate a dialogue and negotiations towards a just and lasting peace.

83. Mr. SWU (Society for Threatened Peoples), having summarized the history of the Naga nation, which numbered three million, and whose ancestral lands had been occupied by India and Burma for nearly 50 years, said that, on 1 April 1995, the Indian Government had declared Nagaland a "disturbed area" and dispatched 50,000 special troops to reinforce the 200,000 occupation forces already in place. Simultaneously, the Burmese Government was stepping up its operations in a joint attempt with the Indian armed forces to crush the Nagas.

84. As the Naga nation had never been a part of India or Burma, the problem was not one of separation or secession but of independence. The Nagas' nationhood was non-negotiable and they would under no circumstances part with their right to self-determination.

85. After 43 years of fighting and untold sufferings, the leaders and generals of India had admitted the futility of their search for a military solution and accepted the principle of a political solution. The leaders of the National Socialist Council of Nagaland had responded positively to the Indian overtures and both parties had agreed to begin negotiations at the highest level and on an unconditional basis.

86. Mr. CHOUDHURY (Liberation) said that the valleys of the south-eastern Himalayas had been inhabited from the dawn of history by indigenous peoples which had so far maintained their distinct socio-ethnic and cultural identities. Those communities spoke no less than 500 languages. The region had never been a part of the Hindu and Muslim empires of India. After the British had left in 1947, efforts had been made to establish self-governing institutions, but the newly-formed Indian State had decided otherwise and had imposed colonial domination over the indigenous peoples of Assam, Manipur, Tripura, Nagaland, Megahlaya, Arunachal Pradesh and Mizoram.

87. Although the region contained significant natural resources, it remained one of the least developed regions of India. The transfers of population which the Indian authorities had been conducting since 1948 had completely changed its demographic balance, so that the indigenous people had become a minority in their own land. The onslaught of the dominant Indian culture in the name of national integration was another threat to indigenous identity, cultural traditions and values nurtured over the ages. In the schools, indigenous children had to study the history of India, which had little to do with their own people.

88. The threat represented by the Indian culture had provoked a reaction from the indigenous peoples. A non-violent resistance movement against illegal immigration and economic expolitation had raged in Assam from 1979 to 1985. Accords had been signed but had never been implementated. As the so-called constitutional process had not restored their legitimate rights, the peoples in question had ultimately demanded self-determination. To suppress their demands, the Indian State resorted to force, committing gross human rights violations in the process.

89. At that very moment, the unified command of the Indian army, paramilitary and police force was fighting a relentless internal war against the forces of the indigenous peoples of Assam. Extrajudicial killings, rape, torture, arbitrary arrest and house-burning had become routine practices. But the indigenous peoples of Assam would not give up until their legitimate right to self-determination was achieved.

90. Mr. CHAMBERLAIN (International Educational Development) said that his organization worked closely with 50 Mexican human rights organizations grouped into a network entitled "Todos los derechos para todos" (All Rights for Everyone).

91. There were 56 Indian peoples in Mexico, which represented approximately 10 per cent of the population and were the poorest of the (40 per cent) poor people in the country. The Committee on the Elimination of Racial Discrimination had termed that situation discriminatory. The multicultural nature of the Mexican nation had not been established in the Constitution (art. 4) until 1992. Unfortunately, during the constitutional revision, an amendment to article 27 had jeopardized the principle of the collective ownership of Indian lands, which had been subjected to market laws, leaving the Indians defenceless in the face of greedy investors. The Committee on the Elimination of Racial Discrimination had therefore recommended that the Government promote the protection of the Indian lands affected by the reform.

92. Since 1994, in Chiapas, the EZLN (Zapatista National Liberation Army) had been demanding that the rights of indigenous Mexicans be recognized. Despite a ceasefire agreement, the army was heavily present in the region, filtering humanitarian aid according to political criteria and destroying the indigenous communities' social fabric, as shown by the increases in family violence, alcohol and drug consumption and prostitution.

93. The Comisión de Concordia y Pacificación (COCOPA) had recently proposed a revision of the Constitution on the basis of the San Andrés Agreements signed by the two parties. The EZLN had accepted the proposal, but the Government had rejected it, showing that it preferred to pursue its policy of repression and militarization of the most heavily populated indigenous regions rather than enter into a genuine dialogue with the Indian peoples.

94. Given the harassment, enforced disappearances, arbitrary detentions and, in many cases, murders to which the indigenous communities were subjected by the military, police and paramilitary groups, his organization urged the international community to see that the international treaties ratified by Mexico were respected and called upon the Government of Mexico to accept COCOPA's proposal and invite the special rapporteurs who had asked to visit the country to do so. It would, in that way, show its will to promote human rights, especially those of the most vulnerable groups: the indigenous peoples.

The meeting rose at 1.05 p.m.